

## INDEX TO HEALTH SERVICES BY LAWS.

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## **EXECUTIVE SUMMARY TO HEALTH SERVICES BY- LAWS**

### **WHAT IS HEALTH SERVICES BY- LAWS?**

Any by- laws that are adequate or in the required standard of the opinion of an environmental health practitioner is sufficient to safeguard public health as approved by Municipal Council.

### **PURPOSE**

- The purpose of these by- laws is to enable the council to protect long term health and well- being of people in the Municipal area i.e. manage and regulate activities that have potential to impact adversely on public health.
- Every person has a constitutional right to an environment that is not harmful to his or her health hence the following health services by- laws are enacted namely:

#### **1. ABATTOIRS**

- means a place established or regulated for slaughtering of animals.
- Its purposes is to ensure the humane treatment of animals and to facilitate the health trading.

#### **2. AIR POLLUTION**

- This by- laws its intention is to assist the Municipality in management of environment.
- Measurement of environmental impacts of any development within jurisdiction of a Municipality.
- To ensure that air pollution is avoided, mitigated or minimized e.g. the over usage of 4 x 4s vehicle recently was criticised by environmentalist and regarded as potential health hazard to the environment.

#### **3. CEMETERIES AND CREMATION**

- To provide for procedures, methods and accepted practices in conducting and regulating funeral undertaker's premises, the burial, cremation and exhumation of deceased persons, the provisions of grave plots and maintenance thereof.

#### **4. CHILD CARE FACILITIES BY- LAWS**

- The purposes is to ensure and regulate premises on which the child care services are operated.
- To make sure that children are at all times properly cared for and

under good supervision.

#### **5. FOOD SELLING, CAFES, RESTAURANT AND EATING HOUSE**

- To empower the Municipality in controlling the premises under which these types of businesses are conducted.
- To ensure that food is good for human consumption.

#### **6. NUISANCE BY- LAWS**

- To promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the Municipality.
- To regulate healthy relationship amongst the residents in the Municipality.

#### **7. OPERATION AND MANAGEMENT OF DIKOMA**

- To empower the Municipality in controlling the operation of the initiation school within its jurisdiction.
- To regulate how, when and where this school can be operated.

#### **8. REFUSE AND REMOVALS BY- LAWS**

- To promote the achievement of a safe and healthy environment for the benefit of residents.
- To provide for procedures, methods and practices to regulate the dumping of refuse and removal thereof.

#### **9. SANITARY BY- LAWS**

- To provide and regulate installation of every sewerage and drainage.
- Municipality is entitled to inspect any sewerage installation, approval or test – after completion thereof in order to see to it that it provide a healthy operation.

#### **10. WASTE MANAGEMENT**

- To ensure smooth operation of waste management control within the Municipal area.
- To control waste collection, recycling or re- usages that it does not cause harm to human health or damage the environment

#### **10. WASTE MANAGEMENT**

- Chemical Safe By-Laws refers to ensuring safe practices with regard to all chemicals. The importance of regulating chemicals and hazardous substances is for the purpose of ensuring safety and protecting human health and the environment.

## ABATTOIRS BY- LAWS

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Abattoirs By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### Preamble

The Council seeks to regulate, hygienic facilities for the receiving, holding and slaughtering of animals, to ensure the humane treatment of animals, and to facilitate the trading of healthy and wholesome meat in its municipal area and this by-law shall apply equally to a Municipal abattoir that the Council may establish and/or manage.

Sections dealing with the Council's obligations regarding a Municipal Abattoir will only apply when the Municipal Abattoir is established.

### 1. Repeal

Any previous by-law adopted by the municipality or the council of a municipality now comprising an administrative unit of the municipality and relating to an abattoir or a slaughterhouse is, from the date of promulgation of this by-law, hereby repealed.

### 2. Definitions

In the interpretation of these by-law, words in the masculine gender include the feminine, the singular includes the plural and vice versa and the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur.

**"Abattoir"** means the abattoir established, regulated and/or managed in terms of the Council's powers and functions, and includes all buildings, structure, pens, lairages, facilities, grounds and open spaces within the boundaries of the premises where situated;

**"Act"** means the safety Act 40 of 2000 or any statutory modification or re-enactment thereof;

**“Agent”** means a livestock agent as defined in the Agricultural Produce Agents Act, 1992 (Act 12 of 1992);

**“Animal”** includes any bull, ox, cow, heifer, steer, calf, sheep, lamb, goat, pig, horse, mule, donkey or other quadruped;

**“Municipal Area”** means the proclaimed area of jurisdiction of the Council;

**“Contractor”** means any person appointed by the Council in terms of section 10;

**“Council”** means the Council of the municipality or any statutory successor in title, or any of the Council’s committees or officials acting under powers, functions and duties lawfully delegated to them;

**“Meat”** means the flesh or offal of any animal;

**“Owner”** in relation to any animal or meat means any person who is the sole or part owner thereof;

**“Person”** includes, where applicable, any legal person or body;

**“Prescribed”** means as prescribed by the provisions of the Act or the Regulations, or as prescribed by the Council from time to time, as the case may be;

**“Regulations”** means the Standing Regulations under the Animal Slaughter, Meat and Animal Products Hygiene Act, 1967 (Act 87 of 1967), as maintained by section 29 of the Act, published by Government Notice No. R. 3505 of 9 October 1969, as amended;

**“Slaughter”** in relation to an animal, means kill, skin, dress the carcass, and perform the usual accompanying acts;

**“Ritual Slaughter”** shall mean slaughter according to traditional Cultural beliefs and customs

**“Veterinarian”** means a veterinarian as defined in the Act;

### **3. Place of Slaughter of Animals**

3.1 No person shall slaughter or cause to be slaughtered any animal in the municipal area anywhere else other than at the Abattoir, except as may be provided by the Minister of Agriculture by regulation in terms of section 3(2) of the Act; provided where a permit has been issued by Council on application for ritual

#### **4. Times of Operation**

4.1 Subject to sub-section 4.2 and 4.3, the Abattoir shall be open from Monday to Friday (both days inclusive) from 06h00 to

17h00 excluding public holidays.

4.2 The Council may determine the hours during which the Abattoir shall be open for the receiving of livestock.

4.3 The Council may extend these hours from time to time at its discretion.

#### **5. Control and Operation**

5.1 Control of the Abattoir shall be exercised by the Council in accordance with this by-law, the Act, the Regulations and other applicable statutory provisions.

5.2 The Council may issue directives and give such oral or written instructions as it may deem necessary for the proper and/or management of the Abattoir.

5.3 All persons at the Abattoir shall obey all lawful directives or instructions given by the Council and any person failing to comply with any such instructions shall be liable to any other lawful penalty.

5.4 The Council shall control and regulate the volume and movement of vehicles entering the Abattoir and within the Abattoir.

5.5 The Council shall be empowered to set aside parking spaces at the Abattoir from time to time and to regulate the use of such parking spaces.

5.6 The Council shall set aside loading bays to cater for the off-loading of animals and the loading of meat.

5.7 The Council may forbid any vehicle from entering or remaining at the Abattoir.

5.8 The Council may control and regulate the volume and movement of animals entering the Abattoir and within the Abattoir, control off-loading of animals and allocate and determine the number of animals to be slaughtered on any given day.

5.9 The Council may forbid the slaughter of any animal or the sale of any meat at the Abattoir.

5.10 Without limiting the generality of sub-section 5.9, if the Council reasonably suspects that any animal or meat at the Abattoir is stolen property, it shall refuse to allow such animal to be slaughtered or such meat to be sold and the Council shall, if it so suspects only after the sale of such meat, seize and retain the proceeds of such sale until ownership of such meat has been established to its satisfaction.

5.11 The Council may refuse to release for sale at the Abattoir or allow to be removed from the Abattoir any meat or offal re-inspected there or the meat or offal of any animal slaughtered there, if it has reason to believe that any fees, charges or levies owing to the Council in respect of such meat or offal or the slaughter of such animal have not been paid.

5.12 The Council may forbid any person who is indebted to the Council in respect of any fee, charge, levy, rental or other amount which is due and payable to the Council, or who has been requested by the Council to furnish a deposit or guarantee and has failed to do so, from entering or remaining at the Abattoir or from trading or using the facilities at the Abattoir.

5.13 The Council shall take all reasonable steps to ensure that all disputes that may arise at the Abattoir affecting the smooth and orderly operation thereof are resolved as expeditiously as possible.

## **6. Registration of Animals**

6.1 Every person bringing or causing to be brought to the Abattoir any animal or animals for slaughter shall, immediately on their arrival, register such animal or animals with the Council which shall issue to such person an entry document in the form prescribed from time to time.

## 7. Care of Animals

7.1 All animals awaiting slaughter shall be treated with the utmost care and be kept in a manner which causes no unnecessary suffering to the animal.

7.2 Without limiting the generality of sub-section 7.1, all animals awaiting slaughter shall:-

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(i) be adequately watered at the expense of the abattoir management;

(ii) be adequately fed at the expense of the agent concerned;

7.3 If any agent fails to discharge his obligation in terms of sub-section 7.2.2, the Council may do so and shall be entitled to recover from such agent the costs thereof.

7.4 The agent responsible for any animals awaiting slaughter shall ensure that the animals are not allowed to run loose about the grounds of the Abattoir, but shall confine them in the pens provided for that purpose.

7.5 The Council shall ensure that:-

(i) cattle, equine animals, sheep or goats, and pigs are penned separately;

(ii) fractious animals are kept apart from other animals and are adequately restrained by the agent concerned so as to prevent them from causing injury to other animals observed.;

(iii) the prescribed periods for which animals awaiting slaughter are to be, or may be, penned are observed;

(iv) all persons engaged in driving, kraaling or moving an animal within the Abattoir shall adopt such methods and precautions as will prevent the infliction of any unnecessary pain, suffering, or undue excitement to the animal;

(v) all other provisions of the Act and the Regulations regarding the care of animals are complied with and strictly enforced;



7.6 During the slaughtering process every effort shall be made to ensure that all animals experience as little pain or suffering as possible and that they are not subjected to any cruelty of any nature whatsoever.

7.7 The slaughter of all animals shall be conducted in a humane manner and shall comply in all respects with the applicable prescribed methods and procedures.

7.8 So as to promote transparency and in the interests of the prevention of cruelty to animals, the Council may authorize any person or persons to enter the Abattoir for purposes of

Inspecting the manner in which animals awaiting slaughter are kept and the manner in which the animals are killed.

## **8. Stunning of Animals**

8.1 Subject to sub-section 8.5 below, no person shall slaughter any animal at the Abattoir unless it has first been stunned in accordance with the Regulations.

8.2 All sheep, lambs, goats and pigs shall be stunned according to the electrical method.

8.3 All other animals shall be stunned according to the captive bolt method.

8.4 Notwithstanding the provisions of sub-sections 8.2 and 8.3, the Council may in its discretion change, from time to time, the method of stunning to be used to that of another prescribed method.

8.5 In the case of ritual slaughter as provided for in the Regulations, the requirement of the stunning of the animals prior to slaughter shall not apply, but all unnecessary cruelty shall be avoided.

## **9. Cleaning of Parts**

9.1 No heads, feet, tails or the internal parts (hereinafter referred to as "offal"), except the kidneys, of any animal shall be cleaned at any place in the Abattoir other than such place approved by the Council for that purpose.

9.2 Unless otherwise authorized by the Council, paunches and intestines shall be emptied, cut, trimmed and cleaned in a place approved by the Council for that purpose in the Abattoir, and shall not be removed from the Abattoir unless and until they are in a condition satisfactory to the Council.

9.3 No deal in offal shall take place in the Abattoir without the written permission of the Council.

## **10. Appointment of Contractors**

10.1 The Council shall be authorized in its absolute discretion to appoint contractors to supervise, control and carry out any of the requisite functions at the Municipal Abattoirs should there be one, particularly those relating to the slaughter of animals, the

dressing of carcasses, the handling of offal, the classification and the auctioning of meat.

10.2 Any contractor so appointed shall assume sole responsibility for the proper carrying out of the nominated functions.

## **11. Allocation of Facilities**

11.1 The Abattoir facilities shall be approved by the Council at its discretion, and it shall have the right to change such allocation when the smooth and efficient operation of the Abattoir requires it, irrespective of whether or not a charge is levied for such facilities.

11.2 If in the opinion of the Council, any of the Abattoir facilities are being or have been abused; the Council may take such steps as may be necessary to prevent the offending party from using or continuing to use such facilities.

## **12. Agents**

12.1 Every person engaged or employed at the Abattoir as an agent for and on behalf of any owner of livestock shall:-

(i) be registered with the Agricultural Produce Agents Council established in terms of the Agricultural Produce Agents Act 1992 (Act 12 of 1992);

(ii) be the holder of a valid fidelity fund certificate, unless exempted in terms of the aforementioned Act; and

(iii) comply in all respects with the Rules in Respect of Livestock Agents made by the Agricultural Produce Agents Council in terms of section 22(1) of the aforementioned Act and promulgated under Government Gazette No. 15144 dated 1 October 1993, or any statutory modification or re-enactment thereof.

### **13. Registration of Employees**

13.1 Every person or contractor employing a slaughter person, dresser, labourer or other worker in the Abattoir shall, within one month of such employee starting work, register such employee with the Department of Labour as a slaughter person, dresser, labourer or other worker as the case may be, according to the nature of his work.

### **14. Medical Examination**

14.1 All slaughter persons and persons handling meat in the Abattoir shall, upon being required so to do by the Council, submit to the Council a valid medical certificate in regard to their health and fitness for the work in which they are engaged, failing which such persons shall be deemed to be unfit to continue such work until such time as the required medical certificate has been submitted.

### **15. Wearing of Protective Clothing and Hoods**

15.1 All persons employed in the slaughtering or dressing of animals or in the handling of carcasses or meat in the Abattoir, shall at all times while so engaged maintain their personal cleanliness and wear clean approved protective clothing.

15.2 All persons engaged in the carrying of meat in the Abattoir shall wear close-fitting hoods approved and kept clean.

15.3 Such clean protective clothing and hoods shall be provided daily by the employers of such persons, at the cost and expense of the employers.

15.4 The Council shall have the power to cause any such person who is not clothed as prescribed, to leave the Abattoir or prohibit him

from handling meat.

## **16. Liability of Employers and Contractors**

16.1 Employers and Contractors shall be responsible for the conduct of their employees at the Abattoir and also for any damage, other than fair wear and tear, that may be caused to the Council's property by such employees.

16.2 Employers and Contractors at the Abattoir shall comply in all respects with the provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and shall ensure that all services performed and all machinery used by their employees at the Abattoir shall be so performed or used in accordance with the provisions of the aforementioned Act.

## **17. Hygiene**

17.1 Subject to section 19, the Council shall ensure that all things necessary to ensure the maintenance of proper standards of

hygiene at the Abattoir and to prevent the contamination and infection of any meat, offal or other animal products are done

17.2 All persons at the Abattoir shall ensure that the Abattoir is kept in a clean state at all time.

17.3 All vehicle used for the transportation of any animal, carcass, meat or meat product to or from the Abattoir shall comply in all respects with the Regulations and other applicable statutory provisions.

## **18. Limitation of Council's Liability**

18.1 The Council shall not be liable for any loss, damage or injury to any property or any injury to or death of any person at the Abattoir, howsoever arising, except where such loss, damage, injury or death is proved to be due to the wilful misconduct or gross negligence of the Council or of its employee acting in the course and scope of their employment.

18.2 All articles placed in cold storage for keeping, chilling, and freezing or treatment shall be at the entire risk of the person requiring such facilities, and no liability shall devolve on the Council in

respect of any loss, damage, shortage or delay arising out of the maintenance of too high or too low a temperature, failure of machinery or plant, flood, wind, leakage, dampness, sweat, decay, putrefaction, or destruction by vermin, act of God, civil commotion, military authority, insurrection, strikes, lock-outs, labour disputes, the country's enemies, quarantine, war, explosion, the nature of the goods, inherent vice, contact with or proximity to other goods, or concealed damage, variation or shrinkage in weight, defective or insufficient packages or containers, theft or any other cause whatsoever, except upon proof of that such loss, damage, shortage, or delay was occasioned by or through the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.

18.3 Notwithstanding anything contained in sub-section 19.2, the Council shall not be liable for damage, howsoever caused, unless inspection of the articles concerned, or such sample of them as the Council may require, has been tendered to the Council before such articles are removed from the Abattoir, nor shall the amount of the Council's liability for any loss, damage, shortage or delay exceed the value of the articles concerned. In this sub-section, "value" shall mean the average price realized at its auction in the Abattoir for similar articles on the day on which the articles concerned are removed from the cold store.

18.4 The provisions of this section shall apply, mutatis mutandis, irrespective of whether the premises in question are used and occupied by the Council itself or leased by it to any other person.

## **19. Payment of Deposits**

19.1 No person shall be permitted to operate at the Abattoir unless a deposit has first been paid by him to the Council, in an amount which shall be determined by the Council in its absolute discretion.

19.2 All deposits shall:-

(i) be in the form of either cash or bank guarantee cheque acceptable to the Council.

(ii) be controlled and administered by the Council.

(iii) subject to sub-section 20.3, be refunded on request to

the person on whose behalf same is held.

19.3 In the event of any person failing to pay timeously any fee, charge, levy, rental or other amount which is due are payable to the Council and on behalf of which person the Council holds a deposit paid in terms of sub-section 20.1, the Council shall be entitled to apply his deposit, in whole or in part, in reduction or settlement of such fee, charge, levy, rental or other amount.

19.4 If any deposit held on behalf of any person has been applied, in whole or in part, in terms of sub-section 20.3, or if circumstances so require, the Council may require such a person to pay to the Council such additional deposits as it may reasonably require, before such a person shall be permitted to operate at the Abattoir.

## **20. Abattoir Advisory Committee**

20.1 The Council may appoint an Abattoir Advisory Committee which shall consist of such members and exercise such functions as may be determined by the Council in its Delegation of Operation and Decision Making Powers manual, as amended from time to time.

## **21. General**

21.1 No person shall enter any part of the Abattoir without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years shall at any time

be admitted to any part of the Abattoir except under the direct supervision of an adult, who shall be responsible and accountable for such child

21.2 No person shall commit a nuisance or cause a disturbance or wilfully damage or handle without authority or tamper with any property, plant, machinery, equipment, fitting, tap, stopcock or other apparatus, or behave in a noisy, unseemly or objectionable manner, in the Abattoir.

21.3 No person shall without the consent of the Council bring intoxicating liquor or any dependence-producing substances into the Abattoir or be in possession of such liquor or dependence-producing substance in the Abattoir, provided that this sub-section shall not apply to any substance containing

alcohol lawfully used in the operation of the Abattoir.

21.4 No person employed at the Abattoir shall be under the influence of intoxicating liquor or any dependence-producing substance in the Abattoir.

21.5 No person shall spit in any part of the Abattoir.

21.6 No person shall smoke in any part of the Abattoir other than in a demarcated smoking area.

21.7 No person shall enter or remain in the Abattoir when suffering from any contagious or infectious disease.

21.8 No person shall sit, lie or stand on any carcass or on any part thereof, whether or not such carcass or part thereof is covered.

21.9 No person shall throw any meat, offal or meat product at any person object at the Abattoir.

21.10 No person shall be in possession of or cause or suffer to be used any limitation, counterfeit or facsimile of the Council's stamp or brand used for stamping any carcass or meat in terms of the Regulations, or fix or impress any such imitation, counterfeit or facsimile on any carcass or meat so as to make it appear that such carcass or meat has been lawfully stamped in terms of the Regulations.

21.11 No person shall, without the authority of the Council, be in possession of or use the Council's stamp or brand used for stamping any carcass or meat in terms of the Regulations.

21.12 All equipment and vehicles used in the Abattoir by any person shall be kept at all times by such person in a sound, clean and hygienic condition.

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21.13 No person shall use any such equipment or vehicle in such a way or of such a purpose as to render any meat deposited, kept or conveyed thereby or therein liable to contamination, or unwholesome or dangerous for consumption.

21.14 No animal found dead in the Abattoir from cause other than lawful slaughtering in the Abattoir shall be skinned until it has been examined by the Veterinarian, who shall thereafter direct as to how the carcass of such animal shall be disposed of.

21.15 No Council official shall directly or indirectly be allowed to trade or purchase meat at the Abattoir, either for his own account or for commission, except such meat as he bona fide requires for his own private consumption, provided that such meat shall be given to such Council official as a gift at a price below the normal market value of such meat as traded on the day in question.

21.16 A certificate issued by a duly authorized Council official indicating the amount which any person owes to the Council shall constitute prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

## **22. Fees and Charges**

22.1 All fees, charges tariffs and levies as may be determined by the Council from time to time shall be payable to the Council.

## **23. Offences**

23.1 Any person who contravenes any provision of this by-law or fails to comply with any lawful directive or instruction of the Council, shall be guilty of an offence and liable, upon conviction, to a maximum penalty of six months imprisonment or to a fine of R500,00 in the case of a first conviction or, in the case of a second or subsequent conviction for the same offence, a fine not exceeding R1000,00 or in default of payment of any fine imposed in either case, imprisonment for a period not exceeding six (6) months.

23.2 The Council may impound any animal, carcass or meat which in its opinion may afford evidence of a contravention of this by-law and where any animal, carcass or meat is so impounded, the Council shall issue a receipt thereof to the owner, agent or person concerned.

## **AIR POLLUTION BY- LAWS**

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Air Pollution By-laws for**



**the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

## **CHAPTER 1**

### **INTERPRETATION AND FUNDAMENTAL PRINCIPLES**

#### **1. Interpretation**

1.1 In this by-law unless the context indicates a contrary intention, an expression which denotes:-

- (i) any gender includes the other gender;
- (ii) a natural person includes a juristic person and vice versa;
- (iii) the singular includes the plural and vice versa;

1.2 In this by-law the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings, unless such meanings are inconsistent with the context in which they occur.

#### **2. Definitions**

**“Authorized Person”** means any employee authorized by the municipality to implement any of the provision of this by-law and in possession of an appointment card issued by the municipality attesting thereto, including any member of the municipal police service or any peace officer;

**“Air Quality Management Plan”** means a plan referred to in section 15 of the National Environment Management, Air Quality Act 2004, (Act No 39 of 2004);

**“All Terrain Vehicles”** means any self-propelled conveyance designed for off road use including but not limited to quad bikes, motor cycles and motor buggies;

**“AQA”** means the Air Quality Monitoring (Act No 39 of 2004);

**“Compressed Ignition Powered Vehicle”** means a vehicle powered

by an internal combustion, compression ignition, diesel or similar fuel engine;

**“Constitution”** means the Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996);

**“Construction Activity”** means any commercial or residential construction, highway construction, including land clearing, maintenance, soil or rock; excavation or removal, soil or rock hauling, soil or rock crushing, explosive blasting demolition or dismantling of buildings implosion the handling of building materials or mechanized trenching;

**“Control Measure”** means a technique, practice or procedure used to prevent or minimize the generation, emission, suspension and/or airborne transport of fugitive dust;

**“Council”** means the Council of the municipality or any statutory successor in title, or any of the Council’s committees or officials acting under powers, functions and duties lawfully delegated to them;

**“Dark Smoke”** means the three monthly running average opacity of monthly observations of visible emissions from fuel burning appliances and/or small boilers which do not exceed 40%;

**“Free Acceleration Test”** means the method described in subsection 18.3 employed to determine whether vehicles are being driven or used in contravention of subsection 18.1;

**“MEC”** means the member of the Executive Council of the province who is responsible for air quality management in the province;

**“Municipality”** means a municipality established in terms of the Local Government Municipal System Act 1998 (Act No 117 of 1998);

**“Minister”** means the Minister of Environmental Affairs and Tourism;

**“National Framework”** means the National Framework for Air Quality Management in the Republic of South Africa, as published in terms of section 7(1) of the National Environmental Management: Air Quality Act 2004 (Act No 39 of 2004);

**“NEMA”** means the National Environmental Management Act, 1998 (Act No 107 of 1998);

**“Nuisance”** means an unreasonable interference or likely interference

caused by air pollution with:

- (a) The health or well-being of any person or living organism; or
- (b) The use and/or enjoyment by an owner or occupier of his or her property and/or environment;

**“Pave”** means to apply and maintain concrete or any other similar material to a road surface;

**“Pest”** means an injurious, noxious or troublesome living organism;

**“Pesticide”** means a micro-organism or material that is used or intended to be used to prevent, destroy, repel or mitigate a pest and includes herbicides, insecticides, fungicides, avicides and rodenticides;

**“Public Road”** means road which the public has a right to use;

**“Open Burning”** means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, excluding the burning of sugar cane;

**“Organ of State”** has the meaning assigned to it in section 239 of the Constitution;

**“Owner and/or Operator”** means any person who owns, leases, operates controls or supervises a fugitive dust source;

**“Repair Notice”** means a notice as referred to in subsection 15.4, regarding the re-testing of vehicle;

**“Rubber Product”** means anything composed of rubber including anything containing or coated with rubber;

**“Smoke”** means the gases, particulate matter and products of combustion emitted into the atmosphere when materials burned or subjected to heat and includes soot, grit and gritty particulates emitted in smoke;

**“Unpaved Road”** means a public or a private unpaved road and includes an unpaved alley, unpaved road easement or shoulder and any unpaved access roads for utilities;

**“Unpaved Parking Lot”** means an area which is not paved and used for parking, manoeuvring, or storing of motor vehicles;

**“Use”** in relation to all-terrain vehicles includes driving, operating or being conveyed by that vehicle;

**“Vacant Lots”** means any vacant portions or residential or commercial lots that are immediately adjacent and owned and/or operated by the same person;

**“Vehicle”** means any motor car, motor carriage, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power;

### **3. Background**

In terms of section 46 of the NEMA, the Minister may make model environmental management by-laws aimed at establishing measures for the management of environmental impacts of any development within the jurisdiction of a municipality, which may be adopted by a municipality as municipal by-laws. The generic air pollution control by-law has been drafted in accordance with this enabling provisions of the NEMA, and is hereby published as a schedule in terms of the NEMA.

### **4. Objectives**

(1) The objectives of this by-law are to:-

(a) Give effect to the right contained in section 24 of the Constitution by regulating air pollution within the area of the municipality’s jurisdiction;

(b) Provide, in conjunction with any other applicable law, an effective legal and administrative framework, within the Council can manage environment and public health; and

(c) Ensure that air pollution is avoided, or where it cannot be altogether avoided, mitigated or minimized.

(2) Any person exercising a power under this by-law must exercise such power in order to give effect to the objectives as set out in subsection (1).

### **5. Application**

(1) This by-law is applicable:-

(a) Within the area of jurisdiction of the municipality; and

(b) In addition to any applicable national or provincial legislation.

(2) The overreaching principles set out in section 6 below, must be considered and applied by any person:-

(a) Exercising a power or function or performing a duty under this by-law; and

(b) Exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on public health and the environment within that area.

## **6. Overreaching Principles**

### **Duty of Care**

(1) Any person who is wholly or partially responsible for causing significant air pollution or creating a risk of significant air pollution occurring must take all reasonable measures:-

(a) To prevent any potential significant air pollution from occurring; and

(b) To mitigate, as far as reasonably possible any significant air pollution that may occur.

(2) The Council may direct any person in writing who fails to take the measures required under subsection (1):-

(a) To investigate, evaluate and assess the impact of specific activities and report thereon;

(b) To commence taking specific reasonable measures before a given date;

(c) To diligently continue with those measures; and

(d) to complete them before a specified reasonable date.

(3) Prior to making such as a decision as contemplated in subsection (2), the Council must give the affected person adequate opportunity to inform them of their relevant interests and may consult with any other organ of state.

(4) Should a person fail to comply, or inadequately comply, with a

directive under subsection (2), the Council may take reasonable measures to remedy the situation.

(5) Provided such person failed to take the measures required of him under subsection (2), the Council may recover all

reasonable costs incurred as a result of it acting under subsection (4) from any or all of the following persons:-

(a) Any person who is or was responsible for, or who directly or indirectly contributed to, the air pollution or the potential air pollution;

(b) The owner of the land at the time when air pollution or the potential for air pollution occurred, or that owner's successor in title;

(c) The person in control of the land or any person who has or had a right to use the land at the time when:-

(i) The activity or the process in question is or was performed or undertaken; or

(iii) The situation came about; or

(d) Any person who negligently failed to prevent:-

(i) The activity or the process being performed or undertaken; or

(ii) The situation from coming about.

(6) If more than one person is liable under subsection (4), the liability may be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsection (1) and (2).  
In dealing with air pollution matters, the Council must:-

(a) Adopt a cautious and risk adverse approach; and

(b) Take into account the interests of future generations.

(7) Conflict with other Legislation

(1) In the event that the by-law conflicts with the provisions of

the NEMA or AQA, the provisions of the latter will prevail.

(2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates air pollution, the provision of this by-law shall prevail to the extent of the inconsistency.

## **CHPATER 2**

### **APPOINTMENT OF AIR QUALITY OFFICERS**

#### **8. Designation of an air Quality Officer**

(1) The Council must, subject to the laws governing the public service, designate an official within its administration to be styled as the air quality officer.

(2) Subject to subsection 8(1), the air quality officer may also be designated as an environmental management inspector, as contemplated in section 31C of the NEMA, as amended.

(3) The air quality officer shall, under the directions of the Council, exercise the duties and powers assigned to him under this by-law.

#### **9. Designation as Environmental Management Inspectors**

(1) The MEC may, subject to the laws governing the public service, designate so many persons, as he may consider necessary, within the administration of the municipality as environmental management inspectors.

(2) Before the designation as environmental management inspectors, such persons must complete the training as prescribed by the Minister in terms of the NEMA Regulations relating to qualification criteria, training and identification of, and forms to be used by environmental management inspectors, published under Government Notice R494, in Government Gazette 28869 of 2 June 2006, as amended.

(3) The designation of environmental management inspectors must be in accordance with section 31c to 31f of the NEMA, as amended.

(4) A designated environmental management inspector shall have

all the functions and powers as set out in section 31G to 31L of the NEMA, as amended.

## **10. Duties and Functions of the Air Quality Officer**

(1) The air quality officer must co-ordinate and develop the municipality's Air Quality Management Plan for inclusion as a chapter in its Integrated Development Municipal Plan, in accordance with Chapter 5 of the Local Government Municipal System Act, 2000 (Act No 32 of 2000)

(2) The air quality officer must prepare the Municipal Air Quality Officer's Annual Report. The report must, amongst others, include the municipality's progress towards the implementation of its Air Quality Management Plan.

(3) The air quality officer must submit the Municipality's report to the Provincial Air Quality Officer as contemplated in paragraph 5.2.3.4 of the National Framework.

(4) The air quality officer may require a person to appoint an Emission Control Officer, as contemplated in section 48 of the AQA, as amended.

## **CHAPTER 3**

### **LOCAL EMISSIONS STANDARDS, NORMS AND STANDARDS AND CONTROLLED APPLIANCES AND ACTIVITIES**

#### **Part I: Local Emission Standards**

## **11. Legal Mandate**

(1) The Council may, by notice in the Provincial Gazette:-

(a) Identify substances or mixtures of substances in ambient air which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the reasonably believes



present such a threat; and

(b) In respect of each of those substances or mixtures of substances, establish local standards for emissions from point, non-point or mobile sources in the municipality.

(2) The Council shall take the following factors as identified in paragraph 5.4.3.1 of the National Framework into consideration in setting local emission standards:-

(a) Health safety and environmental protection objectives;

(b) Analytical methodology;

(c) Technical feasibility;

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(d) Monitoring capability; and

(e) Socio-economic consequences.

### **Part II: Norms and Standards**

#### **12. Substances Identification Process**

(1) The municipality must apply the following criteria when identifying and prioritising the substances in ambient air that present a threat to public health, well-being or the environment:-

(a) The possibility, severity and frequency of effects with regard to human health and the environment as a whole, with irreversible effects being of special concern;

(b) Ubiquitous and high concentrations of the substance in the atmosphere;

(c) Potential environmental transformations and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other uncertainties;

(d) Persistence in the environment, particularly if the substance is not biodegradable and able to accumulate in humans, the environment or food chains;

(e) The impact of the substance taking the following factors into consideration:-

(i) Size of the exposed population, living resources or ecosystems;

(ii) The existence of particularly sensitive receptors in the zone concerned.

(f) Substances that are regulated by international conventions.

(2) The municipality, using the criteria set out in subsection (1) above, must compile a list of substances.

(3) The list of substances must form part of the formal request, by the Municipality, to the Standards South Africa, a division of the South African Bureau of Standards, to develop local emissions standards for the identified substances.

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### **13. Local Emission Standards Setting Process**

(1) The municipality must, following the identification of the substances as set out in subsection (1) above, formally request the Standards South Africa, a division of the South African Bureau of Standards, to develop local emission standards for the identified substances.

(2) The Standards South Africa, in accordance with its processes, will develop and recommend, to the municipality, local emission standards for the identified substances.

(3) When developing the standards, the following standards setting process is applicable:-

(a) Identification of critical factors for public health impacts;

(b) Identification of sensitive sub-populations;

(c) Reviewing available databases for public health status;

(d) Reviewing available databases for ambient air quality information; and

(e) Reviewing and assessing international guidelines and standards.

(4) The Standards South Africa, when developing the emission

standards, must also consider the criteria for setting local emission standards as set out in section 11(2) of this by-law.

#### **14. Publication of Local Emission Standards**

For the purpose of the publication of the emission standards, the municipality must follow the public participation process as set out in section 13 of the Local Government Municipal System Act, 2000 (Act No. 32 of 2000)

### **Par III: Controlled Appliances and Activities**

#### **15. Emission from Compressed Ignition Powered Vehicles**

##### **15.1 Prohibition**

(a) No person may on a public road drive outside, or cause to be driven or use, a compressed ignition powered vehicle that emits dark smoke.

(b) If dark smoke is emitted in contravention of subsection 15.1 (a) above the owner and the driver of the vehicle shall each be guilty of an offence.

(c) For the purposes of this section, “dark smoke” means

(i) Smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density 66 Hartridge smoke units or more; or

(ii) Smoke which has a light absorption co-efficient of more than  $2.125\text{m}^{-1}$ , provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a light absorption

co-efficient of more than 2.51m-1

(d) For purpose of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

### **15.2 Stopping of Vehicles for Inspection and Testing**

(a) In order to enable an authorized person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorized person;

(i) To stop the vehicle; and

(ii) To facilitate the inspection or testing of the vehicle.

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(b) Failure to comply with a direction given under subsection 15.2(a) is an offence.

(c) When a vehicle has stopped in compliance with a direction given under subsection 15.2(a), the authorised person may;

(i) Inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:

(aa) At or as near practicable to the place where the direction to stop the vehicle is given; and

(bb) As soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or

(ii) Conduct a visual inspection of the vehicle and, if the authorized person reasonably believes that an offence has been committed under subsection

15.1(b), instruct the driver of the vehicle, who is

presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specific period of time, for inspection and testing in accordance with subsection 15.3.

### **15.3 Testing procedure**

- (a) An authorized person must use the free acceleration method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of subsection 15.1(a).
- (b) The following procedure must be adhered to in order to conduct a free acceleration test:-
  - (i) When instructed to do so by the authorized person, the driver of the vehicle must start the vehicle, place it in neutral gear and engage the clutch;
  - (ii) While the vehicle is idling, the authorized person must conduct a visual inspection of the emission system of the vehicle;
  - (iii) When instructed to do so by the authorized person, the driver of the vehicle must in less than one

second smoothly and completely depress the accelerator throttle pedal of the vehicle, provided that the authorized person may do so himself or herself if the driver fails or refuses to comply with the authorized person's reasonable instructions;

- (iv) While the throttle pedal is depressed, the authorized person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;
- (v) The driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorized person.
- (c) If, having conducted the free acceleration test, the authorized person is satisfied that the vehicle:-

(i) is not emitting dark smoke, then the authorized person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of subsection 15.1(a); or

(ii) Is emitting dark smoke, the authorized person must issue the driver of the vehicle with a repair notice in accordance with subsection 15.4.

#### **15.4 Repair notice**

(a) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(b) The repair notice must contain inter alia the following information:-

(i) the make, model and registration number of the vehicle;

(ii) the name, address and identity number of the driver of the vehicle; and

(iii) if the driver of the vehicle is not the owner of the vehicle, the name and address of the vehicle owner.

(c) A person commits an offence under this section if that person fails:-

(i) To comply with the repair notice referred to in subsection 15.4(a);

(ii) To take the vehicle for re-testing as referred to in subsection 15.4(a).

(d) It shall be a defense in proceedings under subsection 15.4(c) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

#### **16. Dust Emissions**

- (a) Any person who causes dust emissions shall take all reasonable precautions to prevent excessive emissions into the atmosphere that may be harmful to public health and well-being.
- (b) Any person conducting certain activities identified in this section, which customarily produce excessive emissions of dust, shall be required to adopt control measures as prescribed by the authorized person prior to the commencement of activities, to abate and prevent excessive emissions.

### **16.1 Construction Activities**

- (a) A person who engages in or carries out any construction activity or operation on any land or premises is guilty of an offence, unless that person complied with other applicable legislation and has notified in writing the owners and occupiers of all adjacent properties of:
  - (i) All known details of the proposed construction activity or operation;
  - (ii) The right of owners and occupiers of adjacent properties to lodge written objections to the proposed construction activity or operation with the Council within seven days of being notified; and
  - (iii) The prescribed fee has been paid to the council.
- (b) The provisions of this section are not applicable to:-
  - (i) Landscaping activities by a person at his place of residence;

- (ii) Emergency maintenance activities on publicity maintained roads, road shoulders and rights of way.

### **16.2 Unpaved roads**

- (a) Owners and/or operators of unpaved roads must implement reasonable control measures to prevent excessive emissions of dust into the atmosphere that may be harmful to public health and well-being.
- (b) Owners and/or operators must implement one or more of

the following control measures:-

- (i) Pave;
  - (ii) The use of dust palliatives or dust suppressants;
  - (iii) Uniformly apply and maintain surface gravel, and/or
  - (iv) Any alteration control measure approved in writing by the air quality office.
- (c) Any person subject to the requirements of this section shall compile and retain records of any control measures implemented including:-
- (i) The type of control measure;
  - (ii) The extent of coverage; and/or
  - (iii) The date applied.
- (d) Copies of the records required in subsection 16.2(c) above shall be retained for a period of at least two years.
- (e) The provisions of this section are not applicable to:-
- (i) Unpaved roads having vehicular traffic of less than 150 vehicles per day;
  - (ii) Non-commercial and non-institutional private driveways;
  - (iii) Horse trails, hiking paths, bicycle paths or other similar paths; and/or

- (iv) Any other path that has been designated as an exclusive use area for purpose other than travel by motor vehicle.

### **16.3 Vacant Lots**

- (a) Owners and/or operators of vacant lots of which have 1 square kilometre or more of disturbed surface area and remain unoccupied, unused, vacant or undeveloped for a



period of more than ninety days must implement reasonable control measures to prevent excessive emissions into the atmosphere that may be harmful to health and well-being.

- (b) Owners and/or operators must implement one of the following control measures:-
  - (i) Erect physical barriers and signs to prohibit access to the disturbed areas by motor vehicles;
  - (ii) The use of ground covers;
  - (iii) The use of dust palliatives or dust suppressants;
  - (iv) Re-vegetation which is similar to adjacent undisturbed native condition and/or
  - (v) Any alteration control measure approved in writing by the air quality officer.

#### **16.4 Unpaved Parking Areas**

- (a) Owners and/or operators of unpaved parking lots on which more than 100 vehicles are parked for more than 150 days per year must implement reasonable control measures to prevent excessive emission into the atmosphere that may be harmful to the public health and well-being.
- (b) Owners and/or operators must implement one of the following control measures:-
  - (i) Pave;
  - (ii) Apply dust palliative or dust suppressants;
  - (iii) Uniformly apply and maintain surface gravel, and/or

- (iv) Any alternative control measure approved in writing by the air quality officer.

#### **16.5 All-Terrain Vehicles**

- (a) Any person who uses an all-terrain vehicles shall take all

reasonable precautions to prevent creating a public nuisance and materially interfere with the ordinary comfort and convenience of other people.

(b) No person may use an all-terrain vehicles unless such use:-

(i) Is a permissible use in terms of the NEMA Regulations on the control of vehicles in the coastal zone, published under Government Notice 1399, Government Gazette No. 22960 of 21 December 2001, as amended;

(ii) Is authorized for use on a public road;

(iii) Is on private land by the owner or with permission of the owner or lawful occupier of the land;

(iv) Takes place within a designated recreational all terrain vehicle use area; or

(v) Takes place in an emergency situation in order to safeguard human life or health property or the environment.

#### **17. Emission Caused by Open Burning**

(1) A person who carries out or permits open burning of any material on any land or premises are guilty of an offence, unless:-

(a) The prior written authorization of the Council has been obtained, which authorization may be granted by the Council with conditions, and

(b) That person has notified in writing the owners and occupiers of all adjacent properties of:-

(i) All known details of the proposed open burning; and

(ii) The right of owners and occupiers of adjacent properties to lodge written objections to the

proposed open burning with the Council within seven days of being notified; and

- (ii) The prescribed fee has been paid to the Council.
- (c) The land on which that person intends to open burn the material is state land, a farm or small-holding, or land within a proclaimed township that is not utilised for residential purposes.

(2) The Council may not authorize open burning:-

- (a) Unless it is satisfied that the requirements set out in subsection (1) have been adequately addressed or fulfilled; and
- (b) Where a warning under section 10(1) (b) of the National Veld and Forest Act, 1998 (Act No 101 of 1998) has been published for the region.

(3) The provisions of this section shall not apply to:-

- (a) Recreational outdoor braai activities on private premises;
- (b) Small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
- (c) Any other defined area or defined activity to which the Council has declared this section not to apply.

#### **18. Emission Caused by Burning of Domestic and Garden Waste in Waste Bin or Skips**

A person who carries out or permits the burning of any domestic or garden waste, for the purpose of disposing of that waste, is guilty of an offence unless the domestic or garden waste is disposed of in terms of section 20 of the Environment Conservation Act, (Act No 73 of 1989), as amended.

#### **19. Sugar Cane Burning Emissions**

Any person who burns sugar cane as part of harvesting shall comply with the burning requirement provisions of the National Veld and Forestry Act, 1998, (Act No 101 of 1998), as amended, and the Code of

Burning Practice of the South Africa Sugar Association as issued for the South African sugar industry from time to time.

## **20. Emissions Caused by Tyre Burning and Burning of Rubber Products in Open Spaces**

- (1) No person may carry out or permit the burning of any tyres or rubber products, on any land or premises for the purpose of recovering the scrap metal or fibre reinforcements, or of disposing of tyres or of the rubber products as waste.
- (2) Any person who contravenes subsection (1) is guilty of an offence.

## **21. Pesticide Spraying Emissions**

- (1) No Person may carry out or permit the spraying of pesticides, except as permitted by section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No 36 of 1947).
- (2) Any person who contravenes subsection (1) of this by-law is guilty of an offence, as set out in section 18(1) (c) of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 1947 (Act No 36 of 1947).
- (3) A person who carries out or permits the spraying of pesticides, within the municipal jurisdiction, must also comply with the following controlled measures:-
  - (a) The prior written authorisation of the Council has been obtained, which authorisation may be granted by the Council with conditions, including:-
    - (i) The area of land on which the pesticide may be applied; and
    - (ii) The period of time in which the pesticide may be applied.
  - (b) That person must notify in writing the owners and occupiers of all adjacent properties within 150 meters of the treatment area of:-
    - (i) The details of the proposed treatment area;
    - (ii) The reason for the pesticide use;

- (iii) The active ingredient;
  - (iv) The date and approximate time of the pesticide use;
  - (v) In the event of inclement weather conditions, an alternative date or dates on which the pesticide use may occur;
  - (vi) The time, if any, indicated on the product label specifying when the area can safely be re-entered after application;
  - (vii) The right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Council within seven days of being notified; and
  - (viii) The prescribed fee has been paid to the Council.
- (4) Any person who contravenes subsection (3) is guilty of an offence.
- (5) A person may apply to the Council for an exemption if the spraying of the pesticides is for:-
- (i) The management of pests that transmit human diseases or adversely impact agriculture or forestry;
  - (ii) The management of pests that threaten the integrity of sensitive ecosystems; or
  - (iii) The need for the use of the pesticide is urgent.
- (6) The provisions of this section are not applicable to:-
- (a) Residential areas of farms;
  - (b) Buildings or inside buildings; or
  - (c) Any other defined area or defined activity to which the Council has declared this section not to apply.

## **22. Emission that Cause a Nuisance**

### **22.1 Prohibition**

Any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

## **22.2 Abatement notice**

(1) An authorised person may serve an abatement notice on any person whom the authorised person reasonably believes is likely to commit or has committed an offence under section 22.1 above, calling upon that person:-

(a) To abate the nuisance within a period specified in the notice;

(b) To take all necessary steps to prevent a recurrence of the nuisance; or

(c) To comply with any other conditions contained in the notice.

(2) For the purposes of subsection (1) above, an authorised person may from a reasonable belief based on his or her own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the abatement notice is to be served.

(3) An abatement notice under subsection (1) above may be served:-

(a) Upon the owner of any person; by

(i) Delivering it to the owner, or if the owner cannot be traced or is living abroad that person's agent;

(ii) Transmitting it by registered post to the owner's last known address, or the last known address of the agent; or

(ii) Delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown.

(b) Upon the occupier of the premises; by:-

(i) Delivering it to the occupiers;

- (ii) Transmitting it by registered post to the occupier at the address at which the premises are situated.

- (4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) above is guilty of an offence.
- (5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (4) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

### **22.3 Steps to Abate Nuisance**

- (1) At any time, the municipality may at its own cost take whatever steps it considers necessary in order to remedy harm caused by the nuisance and prevent a recurrence of it, and may recover the reasonable costs so incurred from the person responsible for causing the nuisance.

## **CHAPTER 4**

### **LICENSING OF LISTED ACTIVITIES**

#### **23. Establishment of Air Quality Management Licensing System**

The Council hereby establishes an air quality licensing management system as contemplated in Chapter 5 of the AQA.

#### **24. Purpose of Air Quality Management Licensing System**

- (1) The purpose of the air quality management licensing system is to:-
  - (a) Identify and register all sources of air pollution in the municipal area;
  - (b) Regulate and ensure compliance with the license conditions;
  - (c) Gather information for the purposes of compiling the municipality's air quality management plan, as contemplated in section 15 of the AQA;

- (d) Undertake strategic planning; and
- (e) Provide information to any person in order to:-

- (i) Facilitate monitoring of the performance of the municipality, and if applicable, licensee;
- (ii) Stimulate research by acknowledged institution;  
And
- (iii) Assist the municipality to achieve the main objectives of this by-law.

## **25. Application for Atmosphere Emission License**

- (1) No person shall undertake a listed activity, as published in terms of section 21 of the AQA, without an atmospheric emission license.
- (2) An application for an atmospheric emission license must be:-
  - (a) Made in writing on the prescribed form published in terms of section 53 of the AQA;
  - (b) Accompanied by documents or information as may be required by the municipality; and
  - (c) On payment of the prescribed application fee.
- (3) The municipality must on receipt of an application for an atmospheric emission license:-
  - (a) Acknowledge receipt, within fourteen days, of the application form;
  - (b) Acknowledge receipt, within fourteen days, of the payment of the prescribed fee;
  - (c) Check whether the application is properly completed and contains the information required in the applicable form; and



- (d) Is accompanied by the required information or documents required in terms of this by-law.
- (4) Before considering an application made in terms of subsection (2), the municipality may require the applicant to furnish additional information and/or specialist study.
- (5) Any person who undertakes a listed activity without an atmospheric emission license is guilty of an offence and is subject to the penalties as set out in section 52 of the AQA.

## **26. Factors to be taken into Account**

- (1) The municipality must, in addition to the factors set out in section 39 of the AQA, consider each application having regard to the following factors:-
  - (a) Compliance with the AQA and this by-law, where relevant;  
And
  - (b) The environmental, health and safety record of the applicant.

## **27. Decisions**

- (1) After considering the application in terms of section 25 of this by-law, the municipality must, within sixty days, either:-
  - (a) Approve the application by issuing an atmospheric emission license, subject to such conditions as the municipality may impose; or
  - (b) Reject the application.
- (2) If the municipality fails to grant or rejects an atmospheric emission license within ninety days after considering the application in terms of section 25 of this by-law, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made to grant or reject the application.

## **28. Terms and Conditions of the Atmospheric Emission License**

- (1) When issuing an atmospheric emission license, the municipality may, impose reasonable conditions, as it may deem necessary.

- (2) Atmospheric emission license issued under this section must:-
- (a) Comply with section 43 of the AQA;
  - (b) Contain a requirement that the license holder must comply with, and ensure compliance by his employees, agents and sub-contractors, with this by-law and other applicable national and/or provincial legislation; and
  - (c) Require the license holder to submit emission reports as required in terms of the section 21 notice under the AQA.

### **29. Variation of Atmospheric Emission License**

No building, plant or works used by a license holder shall be materially extended, altered or added to and no changes in process, procedures or significant production increase that will significantly alter impacts may be undertaken without the prior approval of the municipality.

### **30. Cancellation of Atmospheric Emission License**

The person must on cessation of operations notify the municipality of the decommissioning of the plant.

## **CHAPTER 5**

### **OFFENCES AND PENALTIES**

#### **31. Offences**

- (1) A person is guilty of an offence if that person:
- (a) Contravenes a provisions of section 15(1) (b), 15(2) (b), 17(1), 18, 20(2), 21(4), 22.1, 22.2(4).

#### **32. Penalties**

- (1) A person convicted of an offence referred to in section 31(1)(a) above is liable to a fine, or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.
- (2) A fine contemplated in subsection (1):-

- (a) May not exceed an amount prescribed in terms of legislation regulating maximum fines for criminal offences; and
- (b) Must be determined with due consideration of:-
  - (i) The severity of the offence in terms of its impact, or potential impact, on health, well-being, safety and the environment;
  - (ii) The monetary or other benefits which accrued to the convicted person through the commission of the offence; and

- (iii) The extent of the convicted person's contribution to the overall pollution load of the area under normal working conditions.

## **CHAPTER 6**

### **GENEARAL MATTERS**

#### **33. Compliance Monitoring**

For the purpose of compliance monitoring, the designated municipal environmental management inspectors must exercise the powers as set out in section 31G to 31L of the NEMA, as amended.

#### **34. Enforcement**

- (1) The authorised person shall take all lawful necessary and reasonable practicable measures to enforce the provisions of this by-law.
- (2) The municipality may also develop enforcement procedures, which should take into consideration any national or provincial enforcement procedures.

#### **35. Appeals**

- (1) Any person may appeal against a decision taken by an

authorized person under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within thirty days of the date on which that person receives notification of the decision.

(2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the municipality provides otherwise:-

(a) Must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and

(b) May not exercise any rights that may have accrued as a result of the decision that is subject of the appeal application, provided that no other person may exercise any right that may have accrued either.

(3) Within ten days of receipt of the notice of appeal, the municipal manager must:-

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**AIR POLLUTION CONTROL BY-LAW****38**

(a) Submit the notice of appeal to the Council;

(b) Take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application, including any persons registered as interested and affected parties, are notified in writing of the notice of appeal and advised of their right to:-

(i) Obtain a copy of the notice of appeal; and

(ii) Submit written objections to the notice of appeal to the municipal manager within fourteen days of date of notification.

(4) After the expiry of the fourteen day period referred to in subsection 3(b) (ii), the Council must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.

(5) When the appeal is against a decision taken by:-

(a) An authorized person other than the municipal manager, then the municipal manager is the appeal authority; or

(b) The municipal manager, then the Council is the

appeal authority.

- (6) An appeal authority must commence with the appeal within thirty days of receiving notification and must decide the appeal within ninety days.

### **36. Exemptions**

- (1) Any person may in writing apply for exemption from the application of a provision of this by-law to the Council.
- (2) No exemption from the provisions of Chapter 4 of this by-law shall be granted in terms of subsection (1).
- (3) An application in terms of subsection (1) must be accompanied by reasons.
- (4) The Council may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant interested and affected persons and the public.

- (5) The steps contemplated in subsection (4) must include the publication of a notice in at least two newspapers, one circulating provincially and one circulating within the Municipality's jurisdiction:-

- (a) Giving reasons for the application; and
- (b) Containing such other particulars concerning the application as the Council may require.

- (6) The Council may:-

- (a) From time to time review any exemption granted in terms of this section; and
- (b) On good grounds withdraw any exemption.

## **CHAPTER 7**

### **MISCELLANEOUS**

### **37. Severability**

If a section, subsection, sentence, clause or phrase of this by-law is declared invalid by a competent court, the invalid portion shall be severed and shall not affect the validity of the remaining portions of this by-law.

### **38. Jurisdiction**

Notwithstanding anything to the contrary contained in any law relating to the magistrate court, a magistrate shall have jurisdiction, on application of the Council to make an order for the enforcement of any of the provisions of these by-laws or of any approval, refusal or condition granted in terms hereof.

### **39. Repeal of By-Laws**

The by-laws set out in Schedule 1 of this by-law are repealed to the extent set out in that Schedule.

### **40. Short Title**

This by-law shall be called the air pollution control by-law.

### **41. Penalties**

Any person convicted of a breach of these bylaws shall be liable for a fine of R500,00 in the case of a first conviction or, in the case of a second or subsequent conviction for the same offence, a fine not exceeding R1000,00 or in default of payment of any fine imposed in either case, imprisonment for a period not exceeding six (6) months.

### **42. Commencement Date**

This by-law shall come into operation on the date of publication in the Provincial Gazette.

## CEMETERIES AND CREMATORIA BY- LAWS

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act32 of 2000), publishes the **Cemeteries and Crematoria By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### 1. Application and purpose of this By-law

This By-law shall apply to all public cemeteries under the control of the municipality and to the private cemeteries, crematoria and funeral undertakers' premises located within the municipal area. This By-law is intended inter alia:-

- to provide for cemeteries for the burial and cremation of deceased persons;
- to provide for procedures, methods and practices to regulate funeral undertakers' premises, the burial, cremation and exhumation of deceased

persons, the provision of grave plots and the maintenance thereof.

## **2. Definitions**

In this By-law, unless the context otherwise indicates, words used in masculine gender include the feminine, the singular includes the plural and vice versa;

**“Active Cemetery”** means a public, in use, cemetery situated within the area of jurisdiction of the municipality, and includes the buildings and fixtures within that cemetery;

**“Administrator of Cemeteries”** means the head of the section or department of the Municipality which has the responsibility for the administration of the cemeteries of the Municipality, and any person acting in his or her stead or any person duly authorized by the Municipality to act on his or her behalf;

**“Adult”** means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person the dimension of whose coffin cannot be accommodated in an excavation of 1,4m in length and 400mm in width;

**“Aesthetic Section”** means a section of a cemetery, set aside by the municipality, wherein only a headstone may be erected on a berm and on which the municipality must provide and maintain a strip of lawn;

**“After-Hours Fee”** means a fee over and above the prescribed norm of tariff for interment cremations or burials outside normal cemetery operating hours, save

in the case of cremations or burials, which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

**“Anatomy Subject”** means a body delivered to an authorized school of anatomy in terms of the anatomy Act, 1959 (Act No. 20 of 1959);

**“Approved”** means approved by the Municipality;

**“Ashes”** means the cremated remains of a corpse;

**“Berm”** means a concrete base laid at the head of a grave on which a memorial stone, if any, is to be erected;

**“Body”** shall mean any dead human body, including the body of any stillborn



child;

**“Burial”** means burial in the earth or some other form of interment and shall include any other mode of disposal of a body, including a tomb;

**“Burial Order”** means an order issued in terms of the Births and Deaths Regulation Act, 1992 (Act No. 51 of 1992);

**“Burial Place”** means any burial-ground whether public or private, or any place whatsoever in which one or more bodies is/are buried, interred, cremated or otherwise disposed of, or where it is intended to bury, inter, cremate or otherwise dispose of a body.

**“Caretaker”** means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery;

**“Cemetery”** means any land or part thereof within the municipal area set aside by the Municipality or approved by the Council as a cemetery;

**“Cemetery Services”** means services relating to the management, administration, operation and maintenance of an active cemetery;

**“Child”** means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children and includes the corpse of a stillborn child;

**“Code of Practice”** means the obligations and responsibilities of the authorities to the dignified handling and disposal of the deceased;

**“Corpse”** means the remains of a deceased person and includes a stillborn child;

**“Council”** means:-

- (a) The Sekhukhune District Municipal Council; or
- (b) A structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000); or
- (c) A service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81 (2) of the Local Government: Municipal System Act or any other law as the case may be;

**“Cremation”** means the process whereby the corpse is disposed of by fire;

**“Cremated Remains”** means all recoverable human remains after the cremation;

**“Crematorium”** means a crematorium as defined in section 1 of the Cremation Ordinance, 1965 (Ordinance No. 18 of 1965) and includes the building in which the ceremony is conducted and the cremation is carried out and any structure which in any special circumstance the MEC for health may approve as a crematorium;

**“Crematory”** means the room in the crematorium which houses the cremation refractory;

**“Cremator”** means the refractory in which the process of cremation of the confined body is carried out;

**“Crematorium Section”** means a section of a cemetery or crematorium set aside by the Municipality for the burial of ashes;

**“Exhumation”** means the removal of a body from its grave;

**“Existing Funeral Undertaker’s Premises”** means existing funeral undertaker’s premises which are legally used as such on the date of commencement of this By-law;

**“Funeral Undertaker’s Premises”** means premises that are used or will be used for the preparation of corpses;

**“Full Capacity”** means that all existing space for interment has been used so that it is no longer reasonably practicable, whether for economic, aesthetic, physical or any other good reason for the Municipality to set out any more sites for graves;

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## CEMETERIES AND CREMATORIA BY-LAWS

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**“Garden of Remembrance”** means a section of a cemetery or crematorium set aside for the erection of memorial work;

**“Grave”** means a piece of land excavated for the burial of a corpse within a cemetery or heritage site and includes the, headstone, number or marker of and a structure on or associated with such place;

**“Hero”** means a person who performed a heroic act for the country and is given

the status of a hero by the Council;

**“Heroes Acre”** means an area of land set aside for the burial of a hero;

**“Holder of Reservation Certificate”** means a person to whom a certificate has been issued in terms of section 10 or transferred to in terms of section 11;

**“Indigent Person”** means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organization or non governmental organization can be found to bear the burial or cremation costs of such deceased person and includes a pauper;

**“Indigent Relief”** means an indigent person who has received assistance for burial or cremation from another person, welfare organization or non governmental organization;

**“Inhumation”** means the burial of human remains;

**“Interment”** means the inter/commit the human remains into its final place (see burial);

**“Landscape Section”** means a cemetery or section therein set aside by the Municipality where memorial work is restricted to a plaque or memorial slab (500mm) provided that such plaque or memorial slab is placed horizontal at 30mm below grass level;

**“Lawn Section”** means a cemetery or section therein set aside by the Municipality where memorial work is restricted to a headstone only;

**“Medical Officer of Health”** means the medical officer of health of the Municipality or of any other Government department appointed in terms of section 22 of the Health Act, or any person appointed to assist him/her in terms of section 24 of the Health Act, who is authorized by the medical officer of health and who acts under his/her supervision;

**“Memorial Section”** means a section of a cemetery set aside for erection of memorials;

**“Memorial Wall”** means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

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**“Memorial Work”** means any headstone, monument, plaque, or other work, or object erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person includes a kerb demarcating a grave and a slab covering a grave;

**“Municipal Area”** means the area of jurisdiction of the Sekhukhune District Municipality;

**“Municipal Manager”** means the municipal manager as defined in section 82 (1) (a) of the Structures Act;

**“Municipality”** means the Sekhukhune District Municipality established in terms of section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with these By-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“Name”** shall be the name of the deceased and includes any identifying description of a deceased human being who possessed no name or whose name is unknown at the time of death;

**“New Cemetery”** means a public cemetery which is developed, or set aside for development, by the Municipality and which is or may become an active cemetery as contemplated in section 2B of these By-laws;

**“New Funeral Undertakers’ Premises”** means funeral undertaker’s premises that are put into use as such after the date of commencement of these By-laws;

**“Niche”** means a compartment in a columbarium or garden of remembrance for the placing of ashes;

**“Normal Operational Hours”** means Monday to Sunday 07h00 to 17h00;

**“Office Hours”** means Monday to Friday 07h30 to 16h00 excluding Saturdays, Sundays and Public holidays;

**“Officer-in-Charge”** means the registrar of a crematorium or a person authorized by the Municipality to be in control of any cemetery appointed in terms of Regulation 21 of the Regulations relating to crematorium and cremation;

**“Passive Cemetery”** means a public owned, regulated, established, maintained, or controlled by the Municipality, that is certified as a “passive cemetery” in terms of section 5 (1) of this By-laws;

**“Pauper”** means a person who has died as an unknown person or if other relative or other person, welfare organization or non governmental organization can be found bear the burial or cremation costs of such deceased person;

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**“Plot”** means any area laid out in a cemetery for not less than 2 and not more than 3 graves adjoining each in any direction, in respect of which the exclusive

right to inter has been acquired in terms of these By-laws;

**“Preparation”** means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and includes the embalming of such corpse for the said purpose, and “prepare” and any word derived therefrom has a corresponding meaning; preparation shall not include the embalming of or incisions into a corpse;

**“Prescribed”** means prescribed by the Council;

**“Prescribed Fee”** means a fee determined by the Municipality in terms of section 10G (7) (a) (ii) of the Local Government Transition Act 1993 (Act No. 209 of 1993), or any other applicable legislation;

**“Private Cemetery”** means any cemetery which is not a public cemetery;

**“Private Grave”** means any piece of ground that has been laid out for a grave within any cemetery and in respect of which an exclusive right of use has been reserved in terms of section 23 of these By-laws;

**“Public Cemetery”** means any cemetery which is owned, regulated, established by, or the control of which is legally vested in the Municipality;

**“Refugee”** means any person given refugee status;

**“Registered Description”** means the description of the land as set out in the title deed registered at the deeds office in terms of the Deeds Registry Act, 1937 (Act 47 of 1937);

**“Registrar of Deaths”** means a person duly appointed to register deaths in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

**“Resident”** means a person who, at the time of death, ordinarily resides within the boundaries of the Municipality;

**“SANS”** means the South African National Standard Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993);

**“Service Area”** means the area of jurisdiction of the Municipality;

**“Service Delivery Agreement”** means an agreement between the Municipality and a service provider in terms of which the service provider is required to provide cemetery services;

**“Still-Born Child”** means a human foetus that has had at least 26 weeks of intra-uterine existence but who was born dead in the sense of showing no sign of life after a complete birth;

**“Strewn”** means the dignified scattering of ash in the garden of remembrance;

**“Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**“Supervisor”** means a person appointed from time to time by the Municipality to supervise any cemetery in accordance with section 3 (1) of these By-laws;

**“System Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

**“Tariff”** means the charge levied for rendering cemetery services, determined and promulgated by the Municipality in terms of the Municipality’s tariff policy By-laws adopted under section 75 of the System Act;

**“Tomb”** means an above ground burial vault;

**“Undertaker”** means a person registered to undertake the dignified preparation of a human body for burial or cremation and is in possession of the Council’s and legislature’s certificate of competence;

### **Principles and Objectives**

The Municipality, acting under the powers granted to it by National and Provincial Legislation including the Regulations relating to funeral undertaker’s premises, made by the Minister of Health and Welfare in terms of section 33 and 39 of the Health Act, 1977 (Act No. 63 of 1977), and published as Government Notice No. 237 of 8 February 1985, and aware of the dignity of its residents and the needs to preserve that dignity, and aware that a corpse is to be granted respect, and that all its residents have the right to inter a corpse in a cemetery or to cremate a corpse in a crematorium, hereby adopts these By-laws to control funeral undertakers’ premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain new, existing and passive cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

**CHAPTER 2: ESTABLISHMENT OF PUBLIC CEMETERIES****2. Establishment of Cemeteries**

- (1) The Municipality may from time to time, set aside, acquire or develop any ground for the purpose of establishing a cemetery.
- (2) The Municipality must at all times ensure that sufficient burial space is available for the burial of bodies within the service area.
- (3) The Municipality is responsible for the maintenance and repairs of damage to all cemeteries under its control, other than the maintenance and repair of memorial work.
- (4) The cemetery service may be suspended by the Municipality for maintenance or repair but only after reasonable notice has been given by it of its intention to do so in a newspaper, published in an official language, circulating in the municipal area and specifying that an objection to the suspension may be made in writing to the municipal manager within 30 days of the publication of the notice in the newspaper. Suspension may not be made unless there is another active cemetery in the same category that is available to the public in the service area as an adequate temporary substitute.

**3. Caretakers/Supervisors**

- (1) The Municipality or service provider must appoint a caretaker to every cemetery to control the day to day management of the cemetery.
- (2) The caretaker may supervise more than one cemetery.

**4. Classification of cemeteries**

- (1) The Municipality or service provider may classify cemeteries into different categories for the purposes of establishing different levels of service.
- (2) The classification must be undertaken in such a manner that the cemeteries are classified for the purposes of tariff or fee differentiation in order to ensure affordability but must not amount to unfair discrimination.

**5. Passive Cemeteries**

- (1) Once a cemetery is full and can no longer be used as an active cemetery, the Municipality must issue a certificate declaring that cemetery to be a passive cemetery.

- (2) The Municipality or service provider may close any section or the cemetery on the grounds of it being full and it may continue to use the rest of the cemetery as an active one until the whole cemetery is full and, when that happens, it must be declared a passive cemetery in accordance with subsection (1).
- (3) The Municipality is responsible for the maintenance of all passive cemeteries.

### **CHAPTER 3: PRIVATE CEMETERIES**

#### **6. Registration of existing graves**

Any owner, other than the Municipality, of land in which any grave exist, must, if he is aware of its existence inform the Municipality about it on a form prescribed by the Municipality.

#### **7. Establishment and continued use of private cemeteries**

No person shall establish a private cemetery within the service area, and no owner of any private cemetery already in existence shall, if the use of such cemetery was not previously authorized by the Municipality, continue to use it for burial purposes without the Municipality's authority having been obtained in terms of section 8.

#### **8. Application for a private cemetery**

- (1) An application to establish a private cemetery, or for the Municipality to approve the continued use of a private cemetery must be made in writing to the municipal manager. The application must include:-
  - (a) A locality plan to a scale of not less than 1:10 000, showing the position of a proposed or existing cemetery in relation to the boundaries of the land on which it is either proposed to be established or upon which it is already situated, and a registered description of the site showing all streets, public places and privately owned property within a distance of 100m of the site.
  - (b) A block plan to a scale of at least 1 in 500 showing the position of external boundaries, internal roads and path, subdivision, gravesides, drainage and any building existing or proposed to be erected.



- (c) A plan and sections to a scale of least 1 in 100 of any building existing or proposed to be erected, which shall in the latter case conform with the building and sewage By-laws of the Municipality.

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- (d) A list of registers of records kept, or proposed to be kept for the identification of graves, the scale or the transfer of grave sites and interments.
  - (e) The full names and addresses of the owner and the caretaker.
  - (f) The nature of the title under which the owner of the private cemetery holds or will hold the land on which the cemetery is or will be used as a cemetery, and whether the land is encumbered in any way.
  - (g) Proof to the satisfaction of the Municipality that the owner has adequate financial measures and insurance to be able to discharge the obligation of maintaining the private cemetery and all existing and future graves; and
  - (h) A schedule of burial fees proposed to be charged or currently being charged.
2. On receipt of the application referred to in subsection (1), the municipal manager must place a notice in at least one newspaper, in an official provincial language, circulating within the municipality stating the nature of the application and specifying a date, being not less than 14 days, by which objections to the granting of the application must be lodged with the municipal manager.
  3. Within seven days of the closing date for the lodging of objections, the municipal manager must submit the application to the Municipality for consideration by the Municipality.
  4. The Municipality must consider the application and any objections to it that may have been lodged within 30 days. If, after consideration of the application and any objection to it, the Municipality is satisfied that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise, the Municipality may authorize, in writing, the establishment or continued use of the proposed private cemetery, in accordance with the written application submitted to the Municipality in terms of subsection (1).

5. If approval is granted for the establishment or continued use of a private cemetery or for the continued use of a private cemetery in terms of subsection (4), no departure from the plans submitted in terms of subsection (1) may be made without the approval of the Municipality in writing.

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### **9. Duties of the owner of a private cemetery**

Every owner of a private cemetery which has been authorized in terms of section 8 (4) to establish or continue the use of a private cemetery shall:-

- (a) Maintain a burial register in accordance with section 21 of the Births and Deaths Registration Act, 1992 (Act 51 of 1992)
- (b) Maintain a duplicate copy of the burial register referred to in subsection (a)
  - (a) Above at a place other than the place where the burial register referred to in subsection (a) is kept;
- (c) Keep a record of records showing:-
  - (i) The number of each grave site and the owner of the ground in which the grave is situated; and
  - (ii) The number of interments in each and every site and the name, age, sex, race, last known address, date and cause of death of each person interred in it;
- (d) Comply with the provisions of Chapter 3 and any other relevant provisions of the Births and Deaths Registration Act;
- (e) Maintain all grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
- (f) Provide for the identification of grave sites by subdividing the cemetery into blocks containing a number of graves or grave sites and demarcated by means of signs showing the number and situation of each block;
- (g) Separately number every grave site in each block by means of a durable number plate;

- (h) Maintain all signs and number plates in a neat and legible condition;
- (i) Allow the municipality or its duly authorized officers to enter and inspect the cemetery, the burial register and all records kept in connection therewith;
- (j) Render a monthly report on all burials to the municipal manager on a date to be determined by the municipal manager, detailing the name, last known address, age, sex, race, date and cause of death of every deceased person who has been interred, and the name of the medical practitioner who issued the certificate of death, a copy of the burial order, the authority that issued the burial order, the block and grave site number and the date of interment;

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- (k) Render an annual return to the municipal manager on a date to be determined by the municipal manager, detailing the names and addresses of all trustees, committee members and persons controlling the private cemetery, if there be any;
- (l) Appoint a caretaker/supervisor to manage the cemetery and keep the requisite records;
- (m) The appointment and any subsequent appointment of a caretaker / supervisor must be reported to the municipal manager in an appropriate monthly report submitted to the municipal manager in terms of subsection (j); and
- (n) Comply with any other conditions prescribed by the Municipality.

## **CHAPTER 4: SERVICE PROVIDERS**

### **10. Agreements, Delegation and Customer-Care Charter**

- (1) The Municipality may discharge all or any of its obligations under these By- laws for the rendering of cemetery services by entering into a service delivery agreement with a service provider or service providers in terms of section 81(2) of the Systems Act: Provided that it shall not be discharged from its obligation to enforce these By-laws or to monitor whether it has been complied with by the service provider or any other person.
- (2) Subject to the provisions of the Systems Act or any other law, the Municipality assign to a service provider any power enjoyed by it under these By-laws but may do so only if the assignment is necessary to enable the service provider to discharge an obligation under the service delivery agreement.

- (3) Any reference in this By-law to “municipality or service provider” must be read as applying only to the Municipality if there is no relevant service delivery agreement and, if there be a service delivery agreement it must be read as applying to the service provider.
- (4) Without derogating from the generality of the provisions of subsection (1), the Municipality may not discharge an obligation to monitor and enforce the provisions of these By-laws by entering into an agreement with a service provider to do so.
- (5) A service provider employed in terms of subsection (1) must prepare a customer care charter which shows how the service provider intends to deal with complaints and customer care.

## **11. PENALTIES**

Any person convicted of a breach of these bylaws shall be liable for a fine of R1000,00 in the case of a first conviction or, in the case of a second or subsequent conviction for the same offence, a fine not exceeding R2000,00 or in default of payment of any fine imposed in either case, imprisonment for a period not exceeding six (6) months.

## **CHILD CARE FACILITIES BY- LAWS**

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Standard Child Care Facilities By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### **CHAPTER 1**

#### **DEFINITIONS AND APPLICATION OF BY-LAWS**

##### **1. Definitions**

For the purposes of this By-law, unless the context indicates otherwise:-

**“Adequate”** means adequate in the opinion of the Municipality;

**“Approved”** means approved by the relevant authority with regard to the reasonable environmental health requirements that may apply to each particular case;

**“Authorised Officer”** means any employee, official or metropolitan police officer

of the Municipality who is duly authorized to exercise any power or perform any function in terms of this By-laws;

**“Certificate of Acceptability”** means a certificate of acceptability issued by the Municipality in terms of the regulations made under the Health Act, 1977 (Act 63 of 1977), and published by Government Notice R.918 of 30 July 1999;

**“Child Care Service”** means any building or premises maintained or used, whether for profit or otherwise, for the temporary or partial care of children under 18 years of age apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is controlled by or which has been registered or approved by the State;

**“Environmental Health Practitioner”** means the Environmental Health Practitioner appointed as the Municipality representative or any official to act on his or her behalf;

**“Health Certificate”** means a health certificate issued in terms of section 4;

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**“Health Certificate Holder”** means a person to whom a health certificate has been issued in terms of section 4, and includes a legal person or a partnership or association or persons to whom a health certificate has been issued or a person acting for such health certificate holder;

**“Municipality”** means the Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of the provisions of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**“Police Officer”** means an officer referred to in section 64G of the South African Police Service Act, 1995 (Act 68 of 1995);

**“Premises”** means any land or building or part of any land or building in or on which a child care service is operated;

**“Registration Certificate”** means a registration certificate issued by the relevant authority; and

**“Suitable”** means suitable in the opinion of the Municipality.

## 2. Application of By-Laws

The By-Laws apply to all child care services operated within the area of jurisdiction of the Municipality.

### **3. Application of the By-Laws to existing child care services**

- (1) Notwithstanding the provisions of section 4, the Environmental Health Practitioner may grant an extension of time to a person who was operating a child care service before the date of commencement of this By-Laws so that such person may comply with the provisions of this By-Laws within 12 months or such shorter period as may be determined by the Environmental Health Practitioner.
- (2) The Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in subsection (1) by not more than 12 months.

## **CHAPTER 2**

### **HEALTH CERTIFICATES**

#### **4. Health Certificates**

- (1) No person operate a child care on any premises unless he or she is in possession of a health certificate to the effect that the premises and the general Health facilities comply with this By-Laws. Such health certificate must state:-

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#### **CHILD CARE FACILITIES BY-LAWS**

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- (a) The number of the children permitted to be cared for on the premises;
  - (b) The minimum and the maximum ages of the children permitted to be cared for on the premises; and
  - (c) The hours during which the child-care service may operate.
- (2) A health certificate must be displayed:-
    - (a) On the premises to which it relates; and
    - (b) In such manner as to be clearly visible at all times to any member of the public entering the premises;
  - (3) The Environmental Health Practitioner may issue a health certificate if he or she is satisfied that this By-Laws are being complied with in respect of the child care service and premises in question, provided that if the Environmental Health Practitioner is of the opinion that such compliance is

not reasonably practicable owing to the physical features and facilities of the premises, he or she may issue a health certificate subject to compliance with such other reasonable requirements as he or she may deem necessary.

- (4) If a health certificate holder dies or ceases to operate the child care service to which his or her health certificate relates, the health certificate becomes invalid and is not transferable to any other person or to any heir of or successor in the title to the health certificate holder.
- (5) If a health certificate holder proposes transferring a child care service operated on certain premises to other premises, he or she must obtain a health certificate in respect of such other premises before the child care service may be operated on those premises.
- (6) No person may operate a child care service unless he or she is in possession of a certificate of acceptability in respect of the child care service.

### **CHAPTER 3**

#### **REQUIREMENTS FOR THE PREMISES OF CHILD CARE SERVICES FOR CHILDREN UNDER COMPULSORY SCHOOL-GOING AGE**

##### **5. (1) Compliance with National Building Regulations**

All structures on the premises of any child care service for children under compulsory school-going age must comply with the requirements of the regulations.

##### **6. Indoor play area**

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An indoor play area must be set aside on every premise on which a child care service for children under compulsory school-going age is operated. Such indoor play area must meet the following requirements:-

- (a) The indoor play area must consist of 1,5m<sup>2</sup> of free floor area per child and may be used for playing, eating and sleeping purposes only.
- (b) The indoor play area for children from the age of three years to compulsory school-going age must be separate from the indoor play area for children under the age of three years. Divisions or moveable partitions may be used to create such separation;
- (c) Any structure used as an indoor play area must have:-
  - (i) Exterior walls and a roof so construed as to prevent the permeation of wind and rain;



- (ii) Windows which open to provide sufficient natural light and cross-ventilation; and
- (iii) A floor which has a smooth surface that is easy to wash and that prevents the permeation of dampness.

## **7. Outdoor play area**

An outdoor play area must be provided on the premises of every child care service for children under compulsory school-going age. Such outdoor play area must meet the following requirements:-

- (a) The outdoor play area must consist of not less than 3m<sup>2</sup> of outdoor area per child, provided that if no outdoor play area is available on the premises, an approved additional indoor play area of 1,5m<sup>2</sup> additional space per child is substituted for the outdoor play area.
- (b) The outdoor play area must be free of any excavations, steps, projections, levels or surfaces.

## **8. Toilet and wash facilities for children**

On any premises on which a child care service for children under compulsory school-going age is operated, toilet and wash facilities must be provided for the children. Such facilities must meet the following requirements:-

- (a) Toilet and wash facilities for children from the age of three years to compulsory school-going age must be in an approved separate screened-off area of the premises and must include:-
  - (i) Where no sewer system is available in respect of the premises:-

- (aa) An approved toilet on the premises or immediately adjacent to the premises;
- (bb) One bucket for every eight children, which bucket must be of a size suitable for use as a toilet; and
- (cc) A container with a tight-fitting lid for the disposal of the contents of the bucket or buckets, as the case may be, provided that the contents of the container are disposed or regularly during the day into the approved toilet and that the bucket or buckets and the container and any chamber-pot, pot or "potty" is kept in a clean and sanitary condition at all times;

- (ii) Where a sewer system is available in respect of the premises, one approved toilet for every 20 children;
- (iii) Where washbasins are available, one washbasin for every 20 children, which washbasin must:-
  - (aa) Be at such height as to be conveniently used by children; and
  - (bb) Be supplied with running water, provided that if no running water is available, a minimum of 25 litres of potable water is supplied on a daily basis in a container capable of being closed, which container must be accessible to the washbasins; and
- (iv) Where no washbasins are available, one suitable container for every 20 children, provided that:-
  - (aa) Such container is capable of being filled from a potable water container that can be closed;
  - (bb) Such container is placed at a height convenient for children; And
  - (cc) A minimum of 25 litres of potable water is supplied on a daily basis from the potable water container.
- (b) Toilet and wash facilities for children who are under three years of age or still in nappies must include an approved separate nappy changing area in which is provided:-
  - (i) A nappy changing unit with a surface that can be cleaned easily, which unit must:-
    - (aa) Have one bath or sink for every 20 children who are in nappies; and

- (bb) Be supplied with water, provided that if no running water is available on the premises, an approved source of potable water is available and accessible to the nappy changing area on a daily basis;
- (ii) Disposable material for the cleaning of children who are in nappies;
- (ii) Approved separate containers for storage of clean nappies and soiled nappies; and

(iii) Approved separate containers for the storage of clean nappies and soiled nappies; and

(iv) Approved facilities for the cleaning of the cloth nappies.

### **9. General requirements for toilets and wash facilities for all children**

The toilet and wash facilities contemplated in section 8 must meet the following general requirements:-

(a) In the toilet and wash facilities, an adequate supply of toilet paper, soap and tissues must be available and accessible to the children.

(b) In the toilet and wash facilities, an approved towel and/or facecloth must be provided for each child for his or her individual use, and each child must use the towel and/or facecloth allocated to him or her.

(c) Suitable pegs or hooks must be affixed in the toilet and wash facilities for the hanging of the children's towels and facecloths, and such pegs or hooks must be individually marked.

(d) An adequate number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials must be provided in the toilet and wash facilities.

### **10. Laundry**

If laundry is done on premises on which a child care service for children under compulsory school-going age is operated, the laundry must be done in an area of the premises that is separate from any area used by the children, and the children may not have access to the area in which laundry is done. No laundry may be done in a kitchen on the premises.

### **11. Sickbay**

(1) On any premises on which a child care service for children under compulsory school-going age is operated, an area must be set aside as a sickbay for the treatment and care of any child who becomes ill or injured,

Which area may only be used as a sickbay. Such sickbay must be equipped with:-

(a) An approved fully-lockable and fully-equipped first-aid unit, which unit must be kept out of the children's reach; and

(b) A bed or mattress.

- (2) An approved method for washing hands must be used in the sickbay referred to in subsection (1).

## **12. Kitchen**

On any premises on which a child care service for children under compulsory school-going age is operated, an approved area must be set aside as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils. Such kitchen must meet the following requirements:-

- (a) The kitchen may not be less than 12m<sup>2</sup> in size.
- (b) The floor covering of the kitchen must be of an approved impermeable material which can be cleaned easily.
- (c) For the purposes of cross-ventilation, the kitchen must have an adequate number of windows that can be opened easily.
- (d) The kitchen may not be used as a thoroughfare by children or adults and must not be accessible to the children.
- (e) Approved hand-washing facilities must be provided in the kitchen, and soap, a nailbrush and towels must be available at all times for the purpose of washing hands.
- (f) Washing-up and rinsing facilities must be provided in the kitchen for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, and such washing-up and rinsing facilities must be separate from the food preparation area of the kitchen.
- (g) Running water must be supplied to the hand-washing facilities referred to in paragraph (e) and the washing-up and rinsing facilities referred to in paragraph (f). If no running water is available, a minimum of 25 litres of potable water must be made available and be accessible in the kitchen on a daily basis, provided that the container used for the water is capable of being closed.
- (h) Suitable means for the supply of adequate hot water to the kitchen must be available.

- (i) If any child who is bottle-fed is accommodated in the child care service, the child's bottles must be suitably rinsed and sterilized in the kitchen. Any filled bottles brought from home must be suitably stored in the kitchen in such manner as to prevent contamination and spoilage. Bottles must be clearly marked with the name of the child.

- (j) Perishable foods must be kept in the kitchen at a temperature below 10°C.
- (k) All food must be stored and kept in the kitchen in the best practical manner to prevent contamination and spoilage.
- (l) An approved source of power must be provided for cooking purposes in the kitchen.
- (m) All working areas in the kitchen must have an approved surface that can be cleaned easily.
- (n) An adequate number of suitable refuse bins with lids must be provided in the kitchen.
- (o) If cutlery and crockery are required for use by the children, an adequate supply of cutlery and crockery must be available in the kitchen for the use of each child.

### **13. Storage**

- (1) Any premises on which a child care service for children under compulsory school-going age is operated must have adequate and suitable storage space and storage facilities for:-
  - (a) Food, crockery, cutlery and kitchen utensils;
  - (b) Indoor play materials and play equipment and outdoor play materials and play equipment;
  - (c) Stretchers, sleeping mats, bedding and linen;
  - (d) The personal belonging of each child; and
  - (e) The personal belongings of the staff of the child care service.
- (2) The children may not have access to any storage space or storage facilities contemplated in subsection (1).

### **14. Seating and resting and play equipment**

On any premises on which a child care service for children under compulsory school-going age is operated:-

- (a) Suitable seating must be provided for each child;
- (b) Suitable and safe tables of the correct size to ensure that each child sits comfortably must be provided.;
- (c) An approved resting or sleeping mat or mattress must be supplied for each child if full-day care is provided on the premises, provided that:-
  - (i) Each mat is marked with the name or symbol of the child to whom the mat is allocated; and
  - (ii) Each mattress is covered with a removable washable cover which is marked with the name or symbol of the child to whom the mattress is allocated;
- (d) A clean blanket must be provided for each child, which blanket must be marked with the name or symbol of the child to whom the blanket is allocated; and
- (e) Suitable and safe indoor play equipment and outdoor play equipment must be provided for the children's use.

#### **15. Enclosure**

Any premises on which a child care service for children under compulsory school-going age is operated must have an approved means of enclosure so as to:-

- (a) Prevent a child from leaving the premises of his or her own accord;
- (b) Prevent the entrance of domestic animals onto the premises; and
- (c) Prevent unauthorised access entry.

#### **16. Separate facilities for after-school centre**

If a child care service cares for children of compulsory school-going age (in an after-care school centre) and children under compulsory school-going age on the same premises, the facilities available for the children compulsory school-going age must be separate from the facilities available for the children or compulsory school-going age.

## **CHAPTER 4**

## **REQUIREMENTS FOR THE PREMISES OF CHILD CARE SERVICES FOR CHILDREN OF COMPULSORY SCHOOL-GOING AGE (AFTER-SCHOOL CENTRES)**

### **17. Compliance with National Building Regulations**

All structures on the premises of any child care service for children of compulsory school-going age must comply with the requirements of the National Building Regulations made under the National Building Regulations and Building Standard Act, 1977, unless the premises are situated in an unproclaim area.

### **18. Indoor study area**

An indoor study area consisting of 1.5m<sup>2</sup> free floor area per child must be provided on any premises on which a child care service for children of compulsory school-going age is operated. Any structure used as an indoor study area must have:-

- (a) Exterior walls and a roof so constructed as to prevent the permeation of wind and rain;
- (b) Windows which open to provide sufficient natural light and cross-ventilation; and
- (c) A floor which has a smooth surface that is easy to wash and that prevent the permeation of dampness.

### **19. Outdoor play area**

An outdoor play area must be provided on any premises on which child care service for children of compulsory school-going age is operated. Such outdoor play area must consist of not less than 3m<sup>2</sup> of outdoor area per child and must be free of any excavations, steps, projections, levels or surfaces that, in the opinion of the Municipality, may be dangerous or may constitute a hazard.

### **20. Toilet and wash facilities**

On any premises on which a child care service for children of compulsory school-going age is operated, toilet and wash facilities must be provided for the children. Such facilities must meet the following requirements:-

- (a) The toilet and wash facilities for the children must be in approved separate screened-off area of the premises and must include:-
  - (i) Where no sewer system is available in respect of the premises:

- (aa) An approved toilet on the premises or immediately adjacent to the premises;
- (bb) One bucket for every eight children, which bucket must be of size suitable for use as a toilet; and
- (cc) A container with a tight-fitting lid for the disposal of regularly during the day into the approved toilet and that the bucket or buckets and the container are kept in a clean and sanitary condition at all times;
- (ii) Where a sewer system is available in respect of the premises, one approved toilet for every 20 children;
- (iii) Where washbasins are available, one washbasin for every 20 children, which washbasin must:-
  - (aa) Be at such height as to be conveniently used by children;  
And
  - (bb) Be supplied with running water, provided that if no running water is available, a minimum of 25 litres of potable water is supplied on a daily basis in a container capable of being closed, which container must be accessible to the washbasins; and
- (iv) Where no washbasins are available, one suitable container for every 20 children, provided that:-
  - (aa) Such container is capable of being filled from potable water container that can be closed;
  - (bb) Such container is placed at a height convenient for children;  
and
  - (cc) A minimum of 25 litres of potable water is supplied on a daily basis from the potable water container.
- (b) The toilet and wash facilities for the boys must be separate from those for the girls.

## **21. General requirements for toilets and wash facilities for children**

The toilet and wash facilities contemplated in section 20 must meet the following general requirements:-



- (a) In the toilet and wash facilities, an adequate supply of toilet paper, soap and tissues must be available and accessible to the children.
- (b) An adequate number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials must be provided in the toilet and wash facilities.

**22. Sickbay**

- (1) On any premises on which a child care service for children of compulsory school-going age is operated, an area must be set aside as a sickbay for the treatment and care of any child who becomes ill or is injured, which area only be used as a sickbay. Such sickbay must be equipped with:-
  - (a) An approved fully-lockable and fully-equipped first-aid unit which unit must be kept out of the children's reach; and
  - (b) A bed or mattress
- (2) An approved method of washing hands must be used in the sickbay referred to in subsection (1).

**23. Kitchen**

On any premises on which a child care service for children of compulsory school-going age is operated, an approved area must be set aside as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils. Such kitchen must meet the following requirements:-

- (a) The kitchen may not be less than 12m<sup>2</sup> in size.
- (b) The floor covering of the kitchen must be of an approved impermeable material which can be cleaned easily.
- (c) For the purposes of cross-ventilation, the kitchen must have an adequate number of windows that can be opened easily.
- (d) The kitchen may not be used as a thoroughfare by children or adults and must not be accessible to the children.
- (e) Approved hand-washing facilities must be provided in the kitchen, and soap, a nailbrush and towels must be available at all times for the purposes of washing hands.

- (f) Washing-up and rinsing facilities must be provided in the kitchen for washing up and rinsing crockery, cutlery, pots, pans and other kitchen

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Utensils, and such washing-up and rinsing facilities must be separate from the food preparation area of the kitchen.

- (g) Running water must be supplied to the hand-washing facilities referred to in paragraph (e) and the washing-up and rinsing facilities referred to in paragraph (f). If no running water is available, a minimum of 25 litres of portable water must be made available and be accessible in the kitchen on a daily basis, provided that the container used for the water is capable of being closed.
- (h) Suitable means for the supply of adequate hot water to the kitchen must be available.
- (i) Perishable food must be kept in the kitchen at a temperature below 10°C.
- (j) All food must be stored and kept in the kitchen in the best practical manner to prevent contamination and spoilage.
- (k) An approved source of power must be provided for cooking purposes in the kitchen.
- (l) All working areas in the kitchen must have an approved surface that can be cleaned easily.
- (m) An adequate number of suitable refuse bins with lids must be provided in the kitchen.
- (n) If cutlery and crockery are required for use by the children, an adequate supply of cutlery and crockery must be available in the kitchen for the use of each child.

**24. Storage**

- (1) Any premises on which a child care service for children of compulsory school-going age is operated must have adequate and suitable space and storage facilities for:-
  - (a) Food, crockery, cutlery and kitchen utensils;
  - (b) The personal belongings of each child; and

- (c) The personal belongings of the staff of the child care service.
- (2) The children may not have access to any storage space or facility contemplated in subsection (1).

## **25. Seating**

On any premises on which a child care service for children of compulsory school-going age is operated:-

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- (a) Suitable seating must be provided for each child; and
- (b) suitable and safe tables of the correct size to ensure that each child sits comfortably must be provided.

## **CHAPTER 5**

### **FACILITIES FOR STAFF**

#### **26. Staff toilet and hand-washing facilities**

Any premises on which a child care service is operated must have toilet and hand-washing facilities for the staff of the child care service. Such toilet and hand-washing facilities must meet the following requirements:-

- (a) The staff's toilet and hand-washing facilities must be easily accessible to the staff and be separate from the toilet and wash facilities used by the children.
- (b) Soap and towels must be available in the staff's toilet and hand-washing facilities at all times.

#### **27. Bathroom facilities of staff resident on the premises**

If the staff of a child-care service resides on the premises on which the child care service is operated, the toilet and bathroom facilities for the staff must be easily accessible from the living quarters of the staff.

## **CHAPTER 6**

### **SAFETY AND MEDICAL CARE OF CHILDREN IN ALL CHILD CARE SERVICES**

#### **28. Medical care of children**

- (1) Any person who operates a child care service must be a health certificate holder – The person in charge of a child service must:-
  - (a) In respect of any child who becomes ill or has suffered an injury requiring medical attention

- (i) Notify the child's parent or guardian immediately;

- (ii) Summon medical assistance; and
  - (b) In respect of any child who becomes ill or has suffered any injury, but does not require medical assistance, provide the necessary care and treatment in the sickbay on the premises of the child care service;
  - (c) In the event of any child having a notifiable disease, notify the relevant authority immediately; and
  - (d) In respect of children under compulsory school-going age, ensure that all the children have completed the basic immunisation schedules as deemed necessary by the Municipality, provided that if the children are too young for the immunisation, the health certificate holder/person operating the child care service ensures that the immunisation schedule is completed as soon as the children are old enough.
- (2) A telephone must be available to notify a parent or guardian and summon medical assistance in accordance with subsection (1).

## **29. Safety measures**

Any person who operates a child care service must take the following safety measures on the premises on which the child care service is operated:-

- (a) The children must be adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other object or thing which may be dangerous or cause injury to any child.
- (b) Any slats or rails forming part of an enclosure, security gate, playpen, bed, cot or any other object or structure whatsoever for children under compulsory school-going age must meet the following requirements:-

- (i) The slats or rails may not be more than 75mm apart.
- (ii) The slats or rails must be installed and be maintained in a good state of repair.
- (iii) If the slats or rails are painted, only non-toxic paint may be used.
- (c) All medicines, pesticides, detergents and other substances that may be harmful to children must be stored so as not to be accessible to any child.
- (d) No noxious or poisonous plant or shrub is permitted on the premises, and no animal may be kept on the premises without the approval of the Environmental Health Practitioner.
- (e) No person known or suspected to be suffering from an infectious or contagious disease and no person who has been in contact with a person

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So suffering is allowed on the premises while such person is in the opinion of the Environmental Health Practitioner capable of communicating the infectious or contagious disease.

- (f) No paddling pool, swimming pool, sand pit or other structure is permitted on the premises of a child care service for children under compulsory school-going age unless the approval of the Environmental Health Practitioner has been obtained.
- (g) The provisions of the regulations relating to the exclusion of the children from school on account of an infectious disease, which regulations are made under the Health Act, 1977, must be complied with.
- (h) Any reasonable measures that may in the opinion of the Environmental Health Practitioner be necessary to protect the children from any physical danger must be taken.

**30. General obligations**

- (1) The health certificate holder must, in respect of the child care service to which his or her health certificate relates:-
  - (a) Ensure that, while the children are in the care service, the children are at all times properly cared for and under the direct supervision of an adequate number of adults;
  - (b) Maintain every part of the premises on which the child care service is operated, including any outdoor area and all structures and equipment, in good repair and in a clean and tidy condition;

- (c) Ensure that no person on the premises on which the child care service is operated physically clean and in a state of good health;
- (d) Ensure that no person on the premises on which the child care service is operated uses tobacco or any tobacco product in the presence of any child;
- (e) Ensure that no person on the premises on which the child care service is operated is under the influence of alcohol, any drug or any other harmful substance; and
- (f) Ensure that, if meals are provided for children:-
  - (i) The meals meet the requirements of the relevant authority;
  - (ii) All menus for the meals are approved by the relevant authority and are adhered to; and
  - (iii) The menus for the meals are so displayed as to be visible to

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the parents of the children.

- (2) If any child care service for children under compulsory school-going age transports children to and/or from the premises of the child care service, must ensure that:-
  - (a) While being transported, the children are supervised by at least one adult apart from the driver of the vehicle until the children are handed over to their parents or guardians;
  - (b) The doors of the vehicle in which any child is transported are lockable such that they cannot be opened from inside the vehicle by a child;
  - (c) No child is transported in the front seat of a vehicle;
  - (d) A baby in a carry cot is not placed under a seat of a vehicle;
  - (e) The vehicle in which any child is transported is not overloaded in terms of any applicable law;
  - (f) The driver of the vehicle in which any child is transported is licensed to transport passengers in accordance with the applicable law; and
  - (g) The vehicle in which any child is transported is licensed and is roadworthy in accordance with the applicable laws.

## **CHAPTER 7**

### **CONDITIONS AND REQUIREMENTS APPLICABLE TO THE OPERATION OF ALL CHILD CARE SERVICES**

#### **31. Application for admission**

(1) A health certificate holder must ensure that an application form requesting the following information is completed in full by the parent or guardian of a child on the admission of the child to child care service to which the health certificate relates:-

- (a) The child's name and date of birth;
- (b) The name, address and telephone number of the parent or guardian;
- (c) The place of employment and work telephone number of the parent or guardian;

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(d) The name, address and telephone number of a responsible person other than the parent or guardian who may be consulted in emergencies; and

(e) The name, address and telephone number of the child's medical practitioner.

(2) A health certificate holder must ensure that, on the application form referred to in subsection (1), the parent or guardian gives permission for the child's medical practitioner to be consulted.

(3) A health certificate holder must, in respect of a child care service for children under school-going age, ensure that any application form contemplated in subsection (1) is retained for a minimum of two years, and the date of the child's admission to the child care service and the date of the termination of the child's care in the child care service must be recorded on the application form.

#### **32. Registers**

- (a) A register in which is recorded the particulars and dates in respects of:-
- (i) All children who have been admitted to the child care service; and
  - (ii) All children who are no longer in the care of the child care service;
- and

- (b) A register of attendance in which:-
  - (i) The presence or absence of each child is noted daily; and
  - (ii) Each child's date of birth is recorded.

### **33. Medical reports**

Any person who operates a child care service must obtain from the parent or guardian of each child admitted to the child care service a report which contains the following health information and which must be retained:-

- (a) Information concerning the child's general state of health and physical condition;
- (b) Information about and the dates of any operations that the child has undergone and any illnesses and communicable diseases that the child has suffered from;
- (c) If the child is under compulsory school-going age, details of any immunisation that the child has received; and

- (d) Details of allergies that the child suffers from, and information about medical treatment that the child is undergoing or has undergone.

### **34. Journal**

Any person who operates a child care service must keep a journal, diary, logbook or other similar book in which important or significant events relating to the child care service and the children, including accidents, are recorded.

### **35. Suspension or termination of operation**

A health certificate holder must notify the Municipality of the suspension or termination of the operation of the child care service to which his or her health certificate relates.

### **36. Right of entry and inspection of premises and records**

A duly authorised officer of the Municipality may, for any purpose with the enforcement of this By-Laws, at all reasonable times and without prior notice:-

- (a) Enter any premises on which the child care service is operating; or
- (b) Enter any premises if he or she has reasonable grounds to suspect that a child care service is operated on the premises, in order to carry out such



examination, enquiry or inspection on the premises as he or she may deem necessary.

## **CHAPTER 8**

### **OFFENCES, PRESUMPTIONS, AND WITHDRAWAL OF CERTIFICATES**

(1) A person is guilty of an offence under this By-Laws if he or she, in respect of an official of the Municipality duly authorised under this By-Laws or by the Municipality to enter and inspect any premises:-

- (a) Denies the official entry to the premises or causes or permits any other person to deny the official entry;
- (b) Obstructs or hinders the official in the performance of the official's duties or causes or permits any other person to obstruct or hinder the official;
- (c) Fails or refuses to give the official information that he or she is lawfully required to give or causes or permits any other person to refuse to give the official such information; or

(d) Knowingly gives the official false or misleading information or causes or permits any other person to give the official such information.

(2) A person is guilty of an offence under this By-Laws if he or she unlawfully prevents any other person from entering any premises on which a child care service is operated.

(3) A person is guilty of an offence under this By-Laws if he or she fails or refuses to comply with any provision of this By-Laws or any requirement imposed by the Environmental Health Practitioner in terms of section 4.

(4) A health certificate holder is guilty of an offence under this By-Laws if, in respect of the child care service to which his or her health certificate relates, he or she allows:-

- (a) A greater number of children than the number stated on the health

certificate to be enrolled in the child care service or to be present on the premises of the child care service;

- (b) A child to be enrolled in the child care service or to be present on the premises of the child care service if such child is older than the maximum age or younger than the minimum age for children who may be cared for on the premises in terms of the health certificate;
- (c) The child care service to be operated during hours not stated in the health certificate;
- (5) A person who is guilty of an offence under this By-Laws is liable to conviction to a fine not exceeding R20 000,00 to community service or imprisonment for a period not exceeding one year or to both such fine and such community service or such imprisonment. In the case of a continuing offence, such person is guilty of a separate offence and liable on conviction to a fine not exceeding R20 000,00, to community service or to imprisonment for a period not exceeding one year, or to both such fine and such community service or such imprisonment in respect of every day or part of a day during which the offence continues.

### **38. Withdrawal of health certificate**

The Municipality may at its discretion withdraw a health certificate and/or acceptability issued in terms of this By-Laws if the health certificate holder is convicted of a breach of any of the provisions of this By-Laws.

### **39. Presumptions**

If, in any prosecution under this By-Law, it is alleged:-

- (a) That the owner, lessee or occupier of any premises operates a child care service on those premises, he or she will be deemed to have operated a child care service on those premises unless the contrary is proved; and
- (b) That a child was of a certain age, such child will be deemed to have been that age unless the contrary is proved.

### **40. PENALTIES**

Any person convicted of a breach of these bylaws shall be liable for a fine of R500, 00 in the case of a first conviction or, in the case of a second or subsequent conviction for the same offence, a fine not exceeding R1000, 00 or in default of payment of any fine imposed in either case, imprisonment for a period not exceeding six (6) months.

**FOOD SELLING, CAFES, RESTAURANT AND EATING HOUSE  
BY- LAWS**

The Municipal Manager of the Greater Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Cafes, Restaurants, Eating house and Food By-laws for the Greater Sekhukhune District Municipality,**

to be approved by the Council, as set out hereunder.

### **Definitions**

(1) For the purpose of these by-laws, unless the context otherwise indicates:-  
**“Adequate”, “approved”, “council”, “food”, “handling” and “medical officer of health”** shall bear the respective meanings assigned to them in the Council’s Food-Handling By-laws;

**“Café”, “restaurant” and “eating-house”** meant premises at or in which the business of a café, restaurant or eating-house referred to in items 20, 37 and 8 respectively of schedule 1 of the Licenses ordinance, 1974 (Ordinance 19 of 1974), is conducted;

**“Dining area”** means an area referred to in section 2(8);

**“Preparation room”** means a room or area referred to in section 2(2);

**“Premises”** means premises used for the carrying on of a business of a café, restaurant or eating-house and includes every part of premises so used and also any premises used in connection with the carrying on of the said business, but, where the first-mentioned premises are part of a building, shall not include any other part of the building which is not used for or in connection with the said business;

**“Road-house”** means a café where meals or refreshments are provided and/or served for consumption in a vehicle for which parking facilities are provided on the premises but shall not include a drive-in cinema.

### **Requirements of Premises**

(2) (1) No person shall carry on the business of a café, restaurant or eating-house in or upon any premises unless the requirements prescribed by the succeeding paragraphs of this section are, in so far as applicable thereto, complied with.

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## **FOOD SELLING, CAFÉS, RESTUARANTS AND EATING-HOUSES BY-LAWS 76**

(2) (a) Save as otherwise provided in these By-laws, a room or area for the preparation of food or drink shall be provided in every café, restaurant and eating-house and such preparation room shall have a minimum floor area of

25m<sup>2</sup> and a width of not less than 3m plus an additional floor area of:-

- (i) 0,4m<sup>2</sup> for every 1m<sup>2</sup> that the floor area of the dining area exceeds 40m<sup>2</sup> up to and including 200m<sup>2</sup>, and thereafter;
- (ii) 0,3m<sup>2</sup> for every 1m<sup>2</sup> that the dining area exceeds 20m<sup>2</sup>.

Provided that in every road-house the minimum floor area of the preparation room shall be 55m<sup>2</sup>, plus an additional floor area of 0,75m<sup>2</sup> for every 20m<sup>2</sup> that area of the parking facilities forming part of such road-house, including drive-ways and passage-ways, exceeds 800m<sup>2</sup>. Provided further that where the medical officer of health is satisfied that, having regard to the preparation room of dimensions less than the minimum dimensions required in terms of these By-laws, is adequate, he may permit such smaller preparation room as he deems fit.

- (b) Where the cooking and serving of food, but not the preparation thereof or the cleaning of utensils, is undertaken in an area of the preparation room open to the view of the patrons, the floor area of that part not open to the view of the patrons shall be at least 75% of the total minimum floor area prescribed for the preparation room.
- (c) At least 50% of the floor area required for the preparation room shall be unobstructed floor space.
- (3) In addition to the requirements prescribed under subsection (2), a room or area with a minimum width of 2,5m and a minimum floor area of 7m<sup>2</sup> shall be provided for the washing up of utensils and equipment. Provided that such minimum floor area in every road-house shall be 14m<sup>2</sup>.
- (4) The room or area referred to in subsection (3) shall be equipped with:-
  - (a) Washing-up facilities for utensils as required in terms of section 2(8), (9) or (10) of the council's Food-Handling By-laws and where the medical officer of health deems necessary, an approved pot washing sink.

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 77**

- (b) An approved table solely for the reception of soiled cutlery and crockery and the removal from such cutlery and crockery of unconsumed food.

- (5) (a) the floor surface of the preparation room and the room or area referred to in subsection (3), shall be of an approved impermeable finish.
- (b) The junctions between the walls and the floor of the preparation room and or area referred to in subsection (3), shall be covered.
- (c) Where required by the Medical Officer of Health, the floor of the preparation room and of the room or area referred to in subsection (3), shall be graded to an outside gully drained in accordance with the Council's Drainage By-laws.
- ( 6) Where the storeroom, required in terms of section 2(7) of the Council's Food-Handling By-laws, is not in the opinion of the Medical Officer of Health, conveniently accessible from the preparation room, a further storeroom or area, for the storage of foodstuffs required for the normal day's usage, shall be provided to his satisfaction, which storeroom or area shall have a minimum floor area of 6,5m<sup>2</sup>, a height, of not less than 2,6m and a width of not less than 2,2m.
- (7) Where, in addition to the storeroom required in terms of section 2(7) of these by-laws and the storeroom or area required in terms of section (6), the Medical Officer of Health deems it necessary, separate facilities shall be provided to his satisfaction for the storage, sorting and trimming of raw vegetables and fruit.
- (8) The unobstructed floor area of any area set aside on any premises for the consumption of food or drink by patrons on the premises, other than parking facilities in a road-house, shall allow for a minimum of 1,2m<sup>2</sup> for every intended patron. For the purpose of this section "unobstructed floor area" includes space occupied by tables and chairs, and, where food or drink is consumed at counters, includes the space occupied by such counters.
- (9) (a) Where on any premises an area is set aside for the consumption of food and drink by patrons on such premises, sanitary accommodation in accordance with the Council's Public Health By-laws shall be provided for the use of all patron of such café, restaurant or eating-house.
- (b) In addition to the requirements referred to in paragraph (a), the compartments of and approaches to such sanitary

Accommodation shall be provided with adequate artificial lighting and such sanitary accommodation shall:-

- (i) Be equipped with adequate and approved hand washing facilities.
  - (ii) Be under the direct supervision of the person in control of such café, restaurant or eating-house, who shall be responsible for ensuring that such accommodation is maintained in a clean and sanitary condition and in good working order.
  - (iii) In the opinion of the Medical Officer of Health, be easily accessible to patrons from such café, restaurant or eating-house.
- (10) The requirements of subsection (2), (3), (5), (6) and (7), shall only apply to premises which are newly constructed or reconstructed after the date of promulgation of these By-laws. Provided that the Medical Officer of Health may, if he is satisfied that the application of any one or more of the said requirements is essential in the interest of public health, give notice in writing to the owner or person in control of unreconstructed premises or premises in existence at the time of promulgation of these By-laws, to comply with such requirements as he may specify and within such reasonable period stated in the notice.

### **Protective Clothing**

3. (1) All persons actually engaged in the cooking and preparation of food shall wear an approved head-dress or hair-net, which head-dress or hair-net shall be in a clean and sound condition.
- (2) It shall be the duty of the person in control of any café, restaurant or eating-house to provide such head-dress or hair-net and ensure that such head-dress or hair-net is worn.

### **Laundry facilities**

4. Approved laundry facilities shall be provided where the laundering of articles other than drying cloths is undertaken on the premises of any café, restaurant or eating-house and, where such laundering is not so undertaken such articles shall only be laundered at a licensed laundry.
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**Approved utensils**

5. Only approved pots, pans, crockery, cutlery and other equipment and utensils shall be used for the handling of food and drink.

**Inspection**

6. The Medical Officer of Health may, in order to satisfy himself that the provisions of these By-laws are being complied with:-

- (a) Enter the premises at all reasonable times.
- (b) Examine the premises and anything thereon.
- (c) Examine and question any person on the premises, or who has recently been on the premises, and
- (d) Make tests and take any samples which in his opinion are required in connection with the performance of his duties in terms of this section

**Obstruction**

7. Any person who fails to give or refuses access to any officer of the Council duly authorized by these By-laws or by the Council to enter upon and inspect premises, if he requests entrance to such premises, or obstructs or hinders such officer in the execution of his duties in terms of these By-laws, or who fails or refuses to give information that he may lawfully be required to give to such officer, or who gives to such officer false or misleading information knowing it to be false or misleading information knowing it to be false or misleading, or who unlawfully prevents any other person from entering upon such premises, shall be guilty of an offence.

**General**

8. The provision of these By-laws shall be interpreted as being supplementary to and not derogating from those of the Council's Food-By-laws.

**Offences and Penalties**

9. Notwithstanding anything contained in section 17 of the Council's Food-By-laws, any person who contravenes or fails to comply with any provision



Of these By-laws, shall be guilty of an offence and shall be liable, on conviction, to a penalty not exceeding R300 or, in default of payment, to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment, and in the event of a continuing offence to a fine not exceeding R10 for each day on which such offence continues.

## **BY-LAWS OF FOOD**

### **Definition**

1 For the purpose of these-laws, unless the context indicated otherwise:-

**“Adequate” and “effective”** means adequate or effective, as the case may be, in the opinion of, and **“approved”** means approved by, the Medical Officer of Health, regarding being to the reasonable public health requirements of the particular case;

**“Council”** means the council of the Municipality or any political structure, political office bearer, councillor, or any staff member acting under council’s delegated or sub-delegated authority;

**“Food”** and **“article of food”** include any animal product, fish, fruit, vegetables, condiments, spices, bread, whatsoever (other than a drug or water but including ice) in any form, state or stage of preparation and however packed, which is intended or ordinarily used for human consumption;

**“Handling”** in relation to food means the manufacture, preparation, sale, conveyance, delivery, storage, serving or any other treatment or handling of food;

**“Horsemeat”** means the meat of horses, mules, donkeys or camels;

**“Medical Officer of health”** means the medical officer of health of the council or any person duly authorized to act on his behalf or any person appointed by the council to give effect to the provisions of these By-laws;

**“Premises”** means premises used for the carrying on of a business involving the handling of food and included every part of premises so used and also any premises used in connection with the carrying on the said business, but, where the first mentioned premises are part of a building, shall not include any other part of the building which is not used for or in connection with the said business;

**Requirements for premises**

- 2 (1) Save as may be otherwise provided in these By-laws, no person shall carry on any business or occupation involving the handling of food unless the requirements prescribed in the succeeding subsections are at all times observed in respect of the premises on which it carried on.
- (2) (a) each room shall be provided with natural light by means of windows or louvers which shall have an unobstructed glass area equal to at least 10% of the floor area. Where it is not possible or reasonably practicable to provide the required window area approved means of artificial lighting shall be provided. The illuminance at points of work in each room where food is prepared or stored shall be at least 250 lux. Provided that in the case of a warehouse the illuminance at the points of work shall be at least 150 lux.
- (b) Each room shall be ventilated by means of the windows required in subsection (2) (a) at least 50% of which shall be capable of being opened. Cross ventilation shall be obtained by sitting the windows or louvres in opposite or adjacent walls by means of opening fanlights other approved ventilating devices equal to at least 1,5% of the floor area of each room with a minimum of 0,2m<sup>2</sup>. Where it is not possible or not reasonably practicable to provide a room with natural ventilation as prescribed it shall be provided with approved means of mechanical ventilation or air-conditioning.
- (3) The walls of every room shall be constructed of brick, cement-concrete or other approved substantial and impervious material.
- (4) Where a wall is constructed of brick or cement-concrete, it shall, unless otherwise approved, be plastered and brought to a smooth finish and covered with a light-coloured washable paint or effective plastic finish or otherwise so treated that it has a smooth light-coloured and impervious surface not being a distempered or other similar surface. Provided that a distempered surface of a light colour shall be permitted for the walls of a warehouse.

- (5) Every floor shall be cement-concrete, steel or other approved material and shall have a smooth finish.
- (6) Every room and store room shall have a smooth-surfaced ceiling or other approved means of preventing, or in the case of a warehouse, adequately limiting, and the entry into the room of dust from above.
- (7) (a) there shall be provided on the same erf or stand as the premises, except in the case of a warehouse, and with adequate access thereto, an approved storeroom which shall be properly ventilated, rodent-proof and equipped with adequate lighting, the said lighting to be effected as far as possible by natural means unless the use of artificial light is approved. Such storeroom shall have a floor area of not less than 16m<sup>2</sup>, a height of not less than 2.7m and a horizontal dimensions, height and floor area shall not be enforced in respect of any premises existing at the date of publication of these By-laws if the medical officer of health is satisfied that it is not reasonably practicable by reason of the difficulty of reconstruction or the expense involved thereby to make those premises comply with any one or more of those requirements.
- (b) The storeroom shall be equipped with adequate and approved type dunnage boards, shelves or storage racks at least 250mm above floor level.
- (8) Any room in which any food-cleansing or washing-up operation is carried out shall have an adequate and wholesome supply of hot and cold running water effectively distributed and laid over an approved double bowl sink or sinks with a minimum depth of 230mm and a capacity of at least 55 litre, drained in a approved manner and which shall have an adequate drain board or drainage rack made of stainless steel or other approved impervious materials. Separate sinks shall be provided for the cleaning of food.
- (9) Where any new sink or drain board is installed or any old sink or drain board is reinstalled or replaced, such sink or drain board shall be fixed in to the wall or alternatively located at a distance of at least 100mm from any wall and be provided on the side nearest to the wall with a splash screen rising to a height of 150mm above the top of the sink. Such sink shall be

firmly secured and the space below it shall be enclosed. Every part of any wall within 0,6m from any part of such sink or drain board shall be tiled or given some other approved finish to a height of at least 1.4m from the floor.

- (10) Where a dishwashing machine is installed it shall be of an approved type and adequate provision shall be made for removal of solids from and pre-rising of articles to be washed by such machine. The temperature of the wash water shall not be less than 60oC.

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**FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 83**

- (11) (a) No door, window or other opening in any wall of any room in which food is handled shall be situated within 9m of any pit closet, stable, cowshed or other place where animals or birds are kept.

- (b) No door, window or other opening in any wall of any room in which food is handled shall be situated less than 3m from any door, window or other opening in any wall of any pail closet or pail urinal, or less than 1m from any door, window or other opening in any wall of any water closet flushed urinal.

- (c) No pail closet or pit shall be constructed or placed or allowed to be inside any building or part of any building in which food is handled.

- (12) (a) Notwithstanding the provision of subsection (11) (b), water closet or urinal may be situated within a building containing a room or rooms in which food is handled so long as it only communicates with any such room by means of a passage or lobby which has a floor area of not less than 3m<sup>2</sup> and is separated by an effective door both such room and from such water close to urinal.

- (b) The passage or lobby prescribed in terms of paragraph (a) shall have an aperture, opening to the external air, of at least 0,4m<sup>2</sup> in area, containing fixed louvres or a fixed grid or such other fixed device as will ensure that the passage or lobby is adequately ventilated and lit.

- (13) Unless otherwise approved, no part of the premises shall be used as or communicate, otherwise than by means of an area open to the air, with any room or space used for living or sleeping.

- (14) (a) Wash-hand basins provided with a wholesome supply of running hot and cold water shall be installed and such basins shall be located in an approved position.

- (b) The wall surface above and adjacent to such wash-hand basin shall be tiled with glazed titled or given some other approved finish to a minimum height of 500mm measured vertically from the upper edge of

the wash-hand basin. The said area shall extend to a minimum of 200mm on either side of the wash-hand basin to a point 200mm below the edge of such basin.

- (b) (i) The closets or urinals and the approaches thereto shall be properly screened, separated for each category, appropriately and clearly designated and properly lit at night when the premises are in use.

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**FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 84**

- (ii) A bin with a self-closing lid or other approved disposal unit shall be installed in each closet intended to be used by females.
- (iii) Where urinals are provided, the requisite number of other sanitary conveniences may be reduced by the number of urinals provided but the number of such other sanitary conveniences shall at no time be less than 75% of the total required by paragraph (a) (i).
- (15) There shall be provided an adequate number of refuse receptacles of approved material and design which shall be kept at an approved place.
- (16) The premises shall be provided with an adequate and wholesome supply of water effectively distributed and free from liability to pollution and derived from the council's mains. Provided that if no such is available, the water supply may be derived from an approved source of long as the water remains suitable for human consumption, and the onus remains suitable for human consumption, and the onus shall be upon the license or person in control of the premises to ensure this to the satisfaction of the Medical Officer of Health.
- (17) All tables, other than tables at which persons consume food or drink, and all other working surfaces or appliances used in connection with the handling or transportation on the premises, of food shall be constructed of stainless steel or other approved material having similar non-absorbent properties, and all such surfaces shall be smooth and free from open joint. Where more than one table or appliance forms a working surface, such tables or appliances shall in no way be secured unless the joint is suitably welded and brought to a smooth level surface.
- (18) Unless otherwise approved by the Medical Officer of Health, there shall be adequate access between the interior and the yard of the premises.

- (19) The surface of every yard shall be suitably graded and shall be paved with concrete or other durable and impervious material to an extent of at least 9m<sup>2</sup> outside each door leading to or from the interior of the premises, and where the area of a yard is less than 9m<sup>2</sup> the whole surface thereof shall be so graded and paved.
- (20) Where cooking is carried out on the premises there shall be provided immediately over every cooking stove, oven or similar apparatus and approved hood or canopy of adequate size having a flue at least 300mm in diameter, and where required by the Medical Officer of Health such canopy and flue shall be fitted with an approved extraction fan and filters. The flue shall exhaust to the atmosphere at such a height and in such a position or manner as is necessary to prevent the discharge therefrom from constituting a nuisance to the neighbourhood. Provided that an

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 85**

approved mechanical device may be installed instead of a hood or canopy.

- (21) Fixtures and fittings shall be so installed or arranged as to allow adequate access for cleaning.
- (22) Approved facilities for the storage of unsound foods and damaged containers containing food pending disposal of such unsound foods or damaged containers, shall be provided on the premises.

### **Duties of Person Carrying on or in Control of a Food-Handling Business**

3 No person carrying on or for the time being in charge or control of any business or occupation involving the handling of food, shall do or cause, permit or suffer to be done any of the following:-

- (a) Allow any part of the premises or any utensil, vessel, container, sack, basket or any other receptacle, or any apparatus, machinery or other equipment of any kind or any table linen, towels or washing or drying cloths or any vehicle to be otherwise than in a clean and sanitary condition and in good repair.
- (b) Have, keep, sell or supply on the premises any food or drink which is not sound, wholesome and fit for human consumption or which does not comply with the provisions of the municipality health bylaws and the regulations made thereunder.
- (c) Use for or in connection with the containing, wrapping, covering or handling of food, any crockery, utensil, receptacle, container, paper

wrapping or other appliance or material which is, as the case may be, chipped, cracked or in an way damaged or not in a clean or sanitary condition.

- (d) Handle any unwrapped cooked or prepared food otherwise than by the use of approved clean apparatus, instruments or material or in such a way that it comes into contact with the human hand.  
Provided that this paragraph shall not apply:-
  - (i) To the actual cooking preparation of food, including all operations pertaining to the baking of bread, so long as no individual operation is carried out by hand which could in the opinion of the Medical Officer of Health equally well be carried out by means of some machine or appliance, or
  - (ii) To the removing of bread or any bakery product from the container in which it is placed for delivery in the course of its sale by wholesale.

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#### **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 86**

- (e) For the consumption of drinks, provide straws or other similar devices which are not separately wrapped in paper or other approved material.
- (f) Profile for human consumption any ice which has not been made on the premises or which has been used for any other purpose. Where crushed ice is served such ice shall be crushed in an approved appliance.
- (g) Not take effective measures for the prevention of harbouring or breeding, or for the destruction of flies, cockroaches and other insects and rodents.
- (h) Not protect effective all food from contamination or contact with dirt, dust, insects or rodents or handling by the public.
- (i) Allow any perishable food to be stored at a temperature exceeding 10oC. Provided that the foregoing shall not apply to:-
  - (i) Food kept heated at a temperature of at least 65oC;
  - (ii) Any food which, for the avoidance of spoilage or other deterioration, is kept at room temperature for an approved period allow it to cool;
  - (iii) Unfrozen fruit or vegetables; or

- (iv) Any other food which the Medical Officer of Health is satisfied is not so susceptible to deterioration that it should be kept at all times at a temperature not exceeding 10oC.
- (j) Allow any wearing apparel of any person working on the premises to be kept elsewhere than in a change-room or locker.
- (k) Not provide and maintain for the use of all persons engaged in the handling of foodstuffs an adequate supply of soap and nail brushes and, in the absence of mechanical hand drying equipment, an adequate supply of continuous or other towelling at each wash-hand basin.
- (l) Not provide for the use of the persons mentioned in paragraph (k) clean and sound overalls of a light coloured material with sleeves of at least elbow length or the approved protective apparel, or not cause such overalls or apparel to be worn by such persons when on duty and kept in change-room or locker when not being worn, or not have them maintained in a clean and sound conditions.
- (m) Use any change-room for any purpose other than that of a change or rest-room for employees. Provided that where not more than 25 persons are employed on the premises, a change-room may be

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 87**

used also as an eating-room for employees if the area of unobstructed floor space is not less than 0,5m<sup>2</sup> for every person using the room.

- (n) Sleep in any part of the premises where food is handled or consumed or store food in any bedroom or living-room or elsewhere than in an approved part of the premises.
- (o) Whether by way of said or otherwise part with the possession of, or convey through the street, any food sold for sale by retail, unless it is wrapped in its entirety in clean unprinted paper or other approved wrapping. Provided that:-
  - (i) This paragraph shall not apply to a bakery from which in the course of wholesale business is delivered or conveyed bread or confectionery in the manner prescribed in the council's by-laws, to the conveyance of meat in the course of wholesale business through the street carried out in accordance with such by-laws, to the supply of food for consumption on the premises, or to fruit, eggs or vegetables or any canned, bottled or other factory wrapped food, and
  - (ii) Bread sold by a retailer shall be adequately wrapped in clean



unprinted paper or other approved wrapping.

- (p) Keep any animal or bird in, or permit any animal or bird to be introduced into, any part of the premises on which food is handled. Provided that this shall not apply to guide-dog accompanying a blind person and attached to a leash.
- (q) Unless otherwise approved, display on premises any article of food otherwise than inside a shop.
- (r) Keep elsewhere than in a storeroom any food not on display for sale or any article or material not reasonably and immediately required or necessary for the conduct of the business. Provided that empty mineral water bottles and cases may be stored in any such other place and in such a manner as may be approved, regard being had in particular to the maintenance of cleanliness and the prevention of infestation by rodents or insects.
- (s) Stack or store bulk goods in such a manner as to preclude effective inspection thereof and to ensure effective cleansing as well as insect and rodent control.
- (t) Use a food storeroom for any purpose other than the storing of food: Provided that clothes-locker of employees, for whom no change-room is required in terms of section 2(14), may be stored therein.

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 88**

### **Handling of Food**

- 4. All persons engaged on the premises in work, in or in connection with any business or occupation involving the handling of food shall:-
  - (a) Wear clean clothing and clean and sound overalls of a light-coloured material or other approved protective apparel at all times while so engaged and shall maintain themselves at all such times in a state of personal cleanliness;
  - (b) Keep all clothing, headgear and footwear in a change-room or locker when not in use;
  - (c) Immediately before beginning their work and immediately after any break therein liable to result in the contamination of their hands, and in particular after every visit to a closet, latrine or urinal, wash and scrub their hands and fingernails with a nailbrush, soap and water;
  - (d) After handling unwrapped raw fruit or vegetables or any other material liable to contaminate their hands, first wash and scrub their hands with a nailbrush, soap and water before handling any other

unwrapped food as permitted in terms of section 3(d);

- (e) Not smoke or use tobacco in any manner whatsoever in any part of the premises in which unwrapped food is handled.

#### **Milk Sold for Consumption on Premises**

- 5. Where milk is sold as a refreshment or beverage, or is sold or supplied for consumption on the premises either by itself as refreshment or as part of a beverage, such milk shall be taken only from milk bottles or heat sealed containers as obtained from the licensed milk supplier.

#### **Sale of Horsemeat**

- 6. No horsemeat shall be sold, offered or displayed for sale or kept on any premises on which any other food is handled.

#### **Public Halls**

- 7. No owner or person in charge of a public hall shall handle or allow any other person to handle perishable foodstuff in such hall unless it complies with the following requirements:-

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### **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 89**

- (a) It shall be provided with a kitchen or preparation room having a floor area of at least 45m<sup>2</sup> if the floor area of the hall, room or other part of the premises in which the foodstuffs are to be consumed does not exceed 250m<sup>2</sup>, and the size of such kitchen or preparation room shall be increased by 9m<sup>2</sup> for every 90m<sup>2</sup> or part thereof by which the floor area of such hall, room or other part of the premises exceeds 250m<sup>2</sup>.
- (b) At least, 0,7m<sup>2</sup> of floor space shall be provided for each person whom food is to be served.
- (c) It shall be provided with the following refrigeration space:-
  - (i) Where the number of persons, calculated on the basis of 0,7m<sup>2</sup> for each person, who can be served with the foodstuffs does not exceeds 300. 0,2m<sup>3</sup> in addition 0,028m<sup>3</sup> for every 10 persons;

(ii) Where the number of persons as aforesaid exceeds 300 but does not exceed 500. 0.5m<sup>3</sup> and in addition of 0,028m<sup>3</sup> for every 15 persons;

(iii) Where the number of persons as aforesaid exceeds 500. 0.84m<sup>3</sup> and in addition 0,028m<sup>3</sup> for every 20 person;

### **Public Gatherings**

8. Perishable foodstuffs intended for sale to the public at a public gathering other than in a public hall, shall be kept in adequate refrigeration accommodation at a temperature not exceeding 10oC on the premises upon which such gathering is held, prepared foodstuffs intended to be sold and served hot at such a gathering shall be maintained at a temperature of not less than 65oC.

### **Prohibition of Employment of Certain Persons**

9. (1) No person engaged in the business of the handling of food, whether as employer or employee, shall handle food while suffering from any illness or injury liable to contaminate it.

(2) No person shall be engaged in the handling of food, whether as employer or employee, who after being called upon to do so by the medical officer of health, fails to submit himself to examination by the medical officer of health within the time specified by him.

(3) The medical officer of health shall be entitled to take from any person referred to in subsection (1) and (2) such nasal, throat or

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 90**

other swab, or such blood or other sample or specimen, as he may deem necessary.

### **Vehicles**

10. All meat products, fresh fish and sea-foods delivered to premises shall be conveyed in a vehicle in which a temperature not higher than 5oC shall be maintained

11. On every vehicle used in connection with a business or undertaking involving the handling of food, there shall appear in a conspicuous position in official languages, the name and address of that business or undertaking.

## **General**

12. It shall be an offence to spit on the premises.
13. It shall be an offence for any person not connected with the business being carried on food-handling premises to touch any unwrapped food except food which he has purchased or selected for purchase or raw fruit and vegetables.

## **Bacteriological Samples**

14. The medical officer of health shall be entitled for the purposes of bacteriological examination to inspect and take bacteriological samples from any knife, fork, spoon, plate, dish, cup, saucer, glass or other utensils or implement, or any container, receptacle or other equipment for the serving, storage or preparation of or in connection with the handling of food, or from any part of a food vending machine in or from which food is stored, kept or dispensed.
15. The average plate count for every utensil or any surface thereof shall not exceed 100 bacteria and where such count is exceeded, the licensee or the person in control of the premises from which the article sampled was taken, or both, shall be guilty of an offence.

## **Offences of Penalties**

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 91**

17. Any person who contravenes or fails to comply with or who causes, permits or suffers any other person to contravene or to fail to comply with any provision of these by-laws, shall be guilty of an offence and liable on conviction to a penalty not exceeding R800, or in default of payment, to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment, and in the event of continuing offence, shall be deemed to be guilty of a separate offence for every 24 hours or part of such period during which the offence continues and shall be liable as aforesaid in respect of each such separate offence.

## **CODE OF PRACTICE FOR TAKING BACTERIOLOGICAL SAMPLES**

1. Samples shall be taken by means of swabbing from a group of four articles or components of the same kind, and shall not include samples taken from any article or components of any other kind. Provided that if the number on the premises of an article or component of one kind sampled is less than four, the sample be taken from such lesser number.
2. Swabs used in the taking of bacteriological samples shall be prepared on wooden sticks from absorbent cotton wool and sterilized and maintained in a sterile condition until used.
3. For the purpose of sampling, two bottles of solution, prepared in terms of paragraph 3, shall be used for each article or group of articles or component or group of components.
4. In taking samples the following procedure shall be followed:-
  - (1) Area to be swabbed.
    - (a) In the case of cups, glasses and other drinking utensils the sample shall be taken from the exterior and interior surface to a depth of at least 12mm from the top of the rim.
    - (b) In the case of spoons and ice-cream scoops the sample shall be taken from the entire inner and outer surface of the bowl.
    - (c) In the case of plates, saucers, bowls and the like, over and area of as nearly as possible 100mm<sup>2</sup> of the surface which comes in contact with food.
    - (d) In the case of all other articles or components, from all part of the surface likely to come into contact with food.

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## **FOOD SELLING, CAFÉS, RESTAURANTS AND EATING-HOUSES BY-LAWS 92**

5. In each case the bottles shall be suitably marked so as to identify the article or component from which the sample was taken and to distinguish the wet from the dry swab.
7. The person taking such sample shall at the time of taking the sample record in duplicate the name and address of the premises, the number of articles or components in the group sampled, the time of taking the sample and the identification mark on each bottle as required by the

paragraph 6.

8. As soon as possible after taking the sample the bottles containing the swabs together with the duplicate copy of the particulars recorded under paragraph 7, shall be delivered to a bacteriological laboratory for examination within three hours after taking such sample. Where this is not possible, such sample shall be dispatched forthwith to such laboratory and at all times be kept at a temperature not higher than 5oC.
9. After completion of the test, the number of viable bacteria per article or component shall be determined for each sample, and reported.

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Nuisance By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

**Purpose of By-law**

- To promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the municipality;
- To provide procedures, methods and practices to regulate nuisance.

**Definitions**

1. In this by-law, word used in the masculine gender includes the feminine, the singular includes the plural and vice versa, unless the context otherwise indicates:-

**“Council”** means the council of the Municipality or any political structure, political office bearer, councilor, or any staff member acting under council’s delegated or sub-delegated authority;

**“Erf”** means any land, whether vacant, occupied or with buildings thereon;

**“Municipal Area”** means the municipal area of the Municipality;

**“Municipality”** means the Municipality established in terms of section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000;

**“Objectionable Material”** means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations in progress on any land, and includes any solid, liquid or gas which is or

may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the

public;

**“Public Nuisance”** means any act, omission or condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely effects the safety of the public;

**“Public Place”** means any square, building, park, recreation ground or open space which:-

- (a) Is vested in the Municipality;
- (b) The public has the right to use; or
- (c) Is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**“Public Road”** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof has a right of access, and includes:-

- (a) The verge of any such road, street or thoroughfare;
- (b) Any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) Any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

2. The council may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

### **Behaviour and Conduct**

3. Notwithstanding the provisions of any other by-law no person shall:-

(a) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the council may from time to time set aside or approve for such purposes, provided however that the council may permit public garages, workshops and other trades, subject to such conditions as may



Be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;

- (b) Do work on any erf or use building or land for purposes calculated to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours or to become a source of danger to any person should the council be of the opinion that this provision is being ignored, the council may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
- (c) Carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighborhood;
- (d) Deposit, leave, spill, drop or place any fruit or vegetables peels, broken bottles, glass, refuse or any objectionable material or something which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
- (e) Allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorized employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;
- (f) Allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
- (g) Allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
- (h) Allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers drains, waste fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- (i) Use or any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping,

Disposing, displaying, keeping, selling or offering for sale of any goods, articles or merchandise;

- (j) Use or cause or permit any shop or business premises or vacant land adjoining such shop or business or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- (k) Enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;
- (l) Keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- (m) Deposit or keep or cause or any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;
- (n) Keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
- (o) Befoul, misuse or damage any public convenience or any convenience provided in any public building or place public entertainment;
- (p) Carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (q) Bury or dispose of any dead body in any unauthorized place;
- (r) Permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- (s) cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land premises owned or occupied by him or of which he is in

charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;

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- (t) Cause or permit any foul or polluted waste or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purposes, into any street or on any land;
- (u) Commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;
- (v) Bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;
- (w) Disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organizing any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behavior at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- (x) Advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;
- (y) In or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;
- (z) In any street or public place use any abusive or threatening

language or commit any act which may or is calculated to cause a breach of peace;

- (a) Solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms; or
- (b) Cleanse or wash any vehicle or part in any street or public place;

**Failure to Comply with Provisions**

4. (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped stored or deposited on any erf, or where there is an overgrowth of bush, weeds grass or vegetation on any erf in contravention of section 2(a), (d) and (e) the council may serve a notice on:

- (a) The person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
  - (b) The owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;
  - (c) The owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefore; or
  - (d) The owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation, requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the council;
- (2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection (1) (a), (b), (c) and (d).

- (3) Where on any erf there is a contravention of section 2(f), (g), (h) and (t) the council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance.

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### **Sanitary facilities at construction sites**

5. Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.

### **Unlawful Occupation**

6. (1) No person shall, without the permission of the council, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorized camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the By-law relating to such caravan parks or camping sites.
- (2) The council may serve notice on any person who is occupying a caravan, tent or shelter in contravention of subsection (1) to vacate such caravan, tent or shelter within 3 days after the service of such notice, failing which, such person shall be guilty of an offence.

### **Penalties**

7. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to:
- (1) A fine of R500.00 or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- (2) In the case of a continuing offence, to an additional fine of R1000,00 or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,

- (3) A further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

## OPERATION AND MANAGEMENT OF DIKOMA BY –LAWS

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Operation and Management of Dikoma By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### 1. Definitions

**In these By-laws, unless the context otherwise indicates:-**

**“abduction” or “kidnap”** means the taking of a person by force without his or her consent and, in this case of a minor, without the consent or permission of his or her parent or guardian, and **“abduct” or “kidnap”** have a corresponding meaning;

**“culture”** means the traditional customs of a particular group and includes their habits, norms, mores, ethics and values, and **“cultural”** has a corresponding meaning;

**“Environmental Health Practitioner”** means the Environment Health Practitioner appointed by the Municipality;

**“Executive Mayor”** means the executive Mayor of the municipality

**“health officer”** means a person in the employment of the Municipality who holds qualifications that entitle him or her to be registered as a medical practitioner, an environmental health practitioner or a nurse and who is appointed to enforce the

provisions of these By-laws in accordance with his or her professional practice;

**“MEC”** means the member of the Executive Council of the province of Limpopo who is responsible for health in the province.

**“Municipality”** means the Sekhukhune District Municipality established by General Notice 6770 in the Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**“police officer”** means any person appointed as a police officer or peace officer by the South African Police Service or the Municipality;

**“teacher”** means a person who teaches initiates; and

**“traditional authority”** means an authority which in terms of indigenous law or any other law administers the affairs of any tribe or group of indigenous people or any other persons resident within an area under the control of a traditional leader;

**“traditional leader”** means a person who in terms of indigenous law or any other law is in charge of or exercises control over a traditional authority; and

**“traditional surgeon”** means a traditional healer or traditional health practitioner who performs koma as part of a cultural initiation process and includes any person who has been trained to perform such koma and meets with the requirements for performing koma.

## **2. Application for operation and registration of Dikoma schools**

(1) Any person who intends opening and operating an initiation school must submit a written application to the Cooperative Governance Human Settlement and Traditional Affairs (CoGHSTA) for the registration of the initiation school, provide that:-

(a) Any application received by CoGHSTA is referred to the Municipality; and

- (b) Any application received by the Municipality is referred to the COGHSTA after conducting inspection in loco of the site
- (2) The Municipality must during pre-medical examination of initiates referred to in subsection (1), issue the applicant with the consent forms as set out in Schedules 1 and 2 of these By-laws.
- (3) The consent forms referred to in subsection (2) must be completed and submitted to the CoGHSTA at least 30 days prior to the commencement of the initiation school. No initiation school may commence until it has been approved and registered with CoGHSTA.
- (4) The Environmental Health Practitioner must issue an applicant referred to in subsection (2) with a list of the minimum requirements that are to be met before a registration certificate can be issued in respect of the initiation school, which minimum requirements are set out in Schedule 3 to these Bylaws.

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## **OPERATION AND MANAGEMENT OF DIKOMA**

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- (5) The Environmental Health Practitioner may, after conducting an inspection of the proposed initiation school, issue a registration certificate conditionally or unconditionally in respect of the initiation school.
- (6) Subject to the provisions of these By-laws, a registration certificate may be issued if the minimum requirements pertaining to water, shelter and sanitation have been met.
- (7) No person may carry out any activity pertaining to the operation and management of an initiation school unless the initiation school is registered and approved by CoGHSTA in the area.

### **3. Permission to perform Koma**

- (1) Koma may be performed at or in an initiation school if the consent CoHSTA and the MEC has been obtained in writing.
- (2) A traditional surgeon may perform koma in or at an initiation school if he or she:-
- (a) Medical fitness was previously subjected to a cultural initiation process; and
- (b) has been authorised in writing by the appropriate and recognised traditional leader to perform koma as part of a cultural initiation process.

### **4. Admission of an initiation school**

- (1) Any person who is 12 years of age or older may be admitted to an initiation school.
- (2) If an initiate is under the age of 12 years, his or her parent or guardian must



give consent in writing for the initiate to qualify to attend the initiation school. The consent must be given in the prescribed form as set out in schedule 1 to these Bylaws.

(3) Any person under the age of 12 years who admits himself or herself to an initiation school without the consent of his or her parent or guardian must be detained temporarily and may not be permitted until the Koma care-taker has been notified and has obtained the consent of the parent or guardian in writing.

(4) Any person who is 18 years of age or older may be admitted voluntarily to an initiation school.

(5) No person may abduct or kidnap any other person and take him or her to initiation school and have him or her admitted to the initiation school.

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## **OPERATION AND MANAGEMENT OF DIKOMA**

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(6) A person is guilty of a criminal offence and will be charged by a police officer if such person abducts or kidnaps another person and takes him or her to a Koma and has him or her admitted to the school.

### **5. Closure of initiation schools**

(1) The Executive Mayor may recommend to the MEC of CoGHSTA to close an initiation school that has been operating without being registered and or approved by the relevant authority that is CoGHSTA.

(2) In the event of the closure of a Koma in terms of section (1), the initiates must be temporarily relocated to other registered koma school or their place of choice as a form of intervention to accommodate their wishes.

### **6. Establishment of Koma school advisory committee**

(1) CoGHSTA must establish a koma advisory committee within its area of jurisdiction to deal with matters relating to the operation of Dikoma, including appeals and complaints in respect of the concerned Koma.

(2) The koma advisory committee referred to in subsection (1) may advise the Executive Mayor and the MEC to close an initiation school if, in its opinion, the health of the initiates is at risk.

(3) The members of the initiation school advisory committee referred to in subsection (1) must previously have undergone a cultural initiation process. Such koma advisory committee must consist of at least:-

(a) One representative of the medical, nursing, environmental health or emergency medical services profession'

- (b) One representative of the South African Police Service or metropolitan police of the Municipality;
- (c) One representative of the Traditional Healer's Association of South Africa;
- (d) One representative of the National Department of Education;
- (e) One member of a traditional authority or a representative of such member;
- (g) One person representing an association for the initiation school fraternity; and CoGHSTA

## **7. Initiation by traditional surgeons at Koma school**

- (1) Prior to an initiate's initiation, the traditional surgeon must obtain from the initiate a pre-medical examination certificate as set out in schedule 4 to these By-laws, which certificate must state clearly that the initiate is fit to be initiated and has no medical condition that may cause unnecessary complications during or after the initiation.
- (2) A traditional surgeon must take precautionary measures to ensure the speedy recovery of initiates.
- (3) A traditional surgeon must ensure that health standards are maintained at all times in respect of any Koma.
- (4) A traditional surgeon must ensure that any instrument used to an initiate is not used on another initiate, provided that if an instrument is to be used on more than one initiate, the instrument is properly sterilised after each initiate.

## **8. Duration of Koma school**

- (1) Koma school may operate for a period not exceeding the number of school holidays days or any period as agreed.
- (2) Koma school must be operated during the official school holidays in accordance with the school calendar of the National Department of Education.

## **9. Treatment of initiates**

- (1) No initiate may be subjected to any corporal punishment or unnecessary or

undue physical suffering or punishment.

(2) A teacher or any other person may teach an initiate the language, idioms and poems of the initiation school, provided that no form of intimidation or interrogation is used to teach the initiate.

(3) No initiate may be refused any water or food to the extent that such refusal may result in the dehydration or starvation of the initiate.

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## **OPERATION AND MANAGEMENT OF DIKOMA**

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(4) Adequate sanitary facilities must be provided for initiates.

(5) Initiates must be protected against extreme temperatures, especially cold temperatures during winter.

(6) Any initiate who appears to be developing septic wounds must be referred to a medical practitioner for further treatment.

(7) An initiation school must identify at least one medical practitioner and traditional health practitioner of its choice to assist it in referring to emergency cases.

### **10. Cultural ethics and inspection of Dikoma**

(1) A designated traditionally qualified Environmental Health Practitioner has the responsibility to monitor the initiation school.

(2) All Koma schools must be visited by health officers who have gone through the Koma school before. A health officer must, during his or her visit to an initiation school, assess:-

(a) the general environmental hygiene and medical conditions in the Koma school ; and

(b) the general health of the initiates.

(3) A health officer must be fully informed about and be aware of the proceedings of koma schools to any conflict which may arise.

(4) A health officer or person or persons referred to in subsection (1) must refer any serious matter or problem identified during a visit contemplated in subsection (2) to the relevant authority or body for further action.

### **11. Offences**

(1) A person is guilty of an offence under these By-laws if he or she, in respect of an official of the Municipality duly authorized under these By-laws or by the Municipality to enter and inspect any initiation school:-

(a) denies the official entry to the initiation school or causes or permits any other person to deny the official entry;

(b) obstructs or hinders the official in the performance of the official's duties or causes or permits any other person to so obstruct or hinder the official;

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(c) fails or refuses to give the official information that he or she is lawfully required to give or causes or permits any other person to refuse to give the official such information; or

(d) knowingly gives the official false or misleading information or causes or permits any other person to give the official such information.

(2) A person is guilty of an offence under these By-laws if he or she unlawfully prevents any other person from entering the premises of Koma.

(3) A person is guilty of an offence under these By-laws if he or she fails or refuses to comply with any provision of these By-laws or any requirement imposed by the Environmental Health Practitioner in terms of section 2.

(4) A person who is guilty of an offence under these By-laws is liable on conviction to a fine not exceeding **R20 000.00**, to community service or to imprisonment for a period not exceeding one year, or to both such fine and such community services or such imprisonment. In the case of a continuing offence, such person is guilty of a separate offence and liable on conviction to a fine not exceeding **R20 000.00**, to imprisonment for a period not exceeding one year, or to both such fine and such community service or such imprisonment in respect of every day or part of a day during which the offence continues.

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## SCHEDULE 1

### CONSENT BY PARENT OR GUARDIAN

I, \_\_\_\_\_, ID No. \_\_\_\_\_, hereby give consent for and permit the applicant, \_\_\_\_\_ years of age, to attend initiation school for the prescribed duration of the initiation school.

I declare that I am the parent/guardian of the applicant and I reside at the following address:

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SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

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## SCHEDULE 2

### CONSENT BY APPLICANT

I, \_\_\_\_\_, ID No \_\_\_\_\_ being  
\_\_\_\_\_ years of age, hereby consent to attend to the initiation school for the  
prescribed duration of the initiation school. My date of birth is  
\_\_\_\_\_.

I declare that I reside at the following address:

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SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

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## SCHEDULE 3

### MINIMUM REQUIREMENTS OF WHICH DIKOMA MUST MEET

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To be determined

Delete whichever is not applicable

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1. A suitable shelter must be provided for initiates. The shelter must be considered in such a manner that initiates are protected from extreme temperatures, especially during cold weather conditions.
2. A potable water supply must be provided for the initiates for drinking and cooking purposes.
3. Suitable sanitary facilities in the form of well-constructed pit latrines or portable chemical toilets must be provided for use by the initiates.
4. All refuse removal including medical waste must be hygienically disposed under the supervision of Environmental Health Practitioner.
5. Food must be prepared hygienically and be kept separate from any area used for sleeping purposes.
6. Initiates must be given sufficient food at least twice a day and be allowed to drink water when necessary.
8. Initiates must be allowed to wear warm clothing, especially in cold water.
9. Utensils must be kept clean and safe to use during the operation of the school.
10. The owner of an initiation school must identify at least one person from the medical profession to assist in the event of an emergency and for referral purposes.
11. A waiting place must be available at koma school for persons who have come for an initiation without the consent of their parents or guardians.
12. A register must be kept of all initiates in the koma school.

13. A medical/ first-aid kit that includes antiseptics and medicines for treating minor ailments must be available at the koma school.

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**OPERATION AND MANAGEMENT OF DIKOMA****109****SCHEDULE 4****STANDARD PRE-KOMA MEDICAL EXAMINATION****PARTICIPANT PARTICULARS:**

<b>NAME</b>	_____
<b>SURNAME</b>	_____
<b>DATE OF BIRTH/ID</b>	_____
<b>RESIDENTIAL ADDRESS</b>	_____
<b>EXAMINATION</b>	_____
<b>GENERAL-ALLERGIES</b>	_____
<b>BLEEDING TENDENCIES</b>	_____
<b>ANAEMIA</b>	_____
<b>JAUNDICE</b>	_____
<b>LYMPHADENOPATHY</b>	_____
<b>HEART</b>	_____
<b>LUNGS</b>	_____
<b>ABDOMEN</b>	_____
<b>PSYCHIATRIC DISORDERS</b>	_____

**UROGENITAL CONDITON**

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**OPERATION AND MANAGEMENT OF DIKOMA**

**110**

**OTHER**

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I, \_\_\_\_\_, being a registered  
medical practitioner, certify that, \_\_\_\_\_ is fit to be  
initiated.

**DATE**

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**SIGNATURE**

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**QUALIFICATIONS**

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**PRACTICE NUMBER**

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**TEL NO**

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## REFUSE REMOVAL BY- LAWS

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Refuse Removal By-law for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### 1. Purpose of By-law

- To promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality;
- To provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof.

### Definitions

1. In this By-law, words used in the masculine include the feminine, the singular includes the plural and vice versa, unless the context otherwise indicates:-

**“Bin-Liner”** means a plastic bag, as prescribed by the Municipality, which shall be placed inside the container;

**“Builder’s Refuse”** means any waste or refuses resulting from or generated by the construction, renovation or demolition of a building or other structure or works;

**“Bulky Refuse”** means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape size or quantity cannot be conveniently accumulated in or removed from a container with a bin liner;

**“Charge”** means the charge prescribed by the Municipality by special resolution;

**“Container”** means a standard type of refuse container as approved by the Municipality;

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## REFUSE REMOVAL BY-LAW

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**“Domestic Refuse”** means any refuse or waste normally emanating from or incidental to the normal occupation of a dwelling, flat, hotel, boarding-house, restaurant, guest house, hospital, school, café, shop, old age home or office but shall not include stones, soil, gravel, bricks, waste liquids, night soil, or industrial, builder’s or trade refuse;

**“Garden Refuse”** means any refuse which is generated as a result of normal gardening activities such as grass cutting, leaves, trees, plants, flowers, weeds and other similar light matter;

**“Industrial Refuse”** means any refuse generated as a result of manufacturing, maintenance, production and dismantling activities;

**“Municipality”** means the Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**“Municipal Service”** means, unless otherwise stated, the provision or supply of water – sewerage or electricity services;

**“Occupier”** for the purposes hereof means the person who controls and resides on or who controls and otherwise uses immovable property.

**“Owner”** means and includes:

(a) The person or persons with whom the legal proprietary of any

fixed property is vested;

- (a) The person administering an estate as curator, executor, proxy, trustee or administrator of a person with whom the legal title is vested and who is insolvent or dead or of his mind;
- (c) The agent or persons receiving the rental of a property in cases where the owner as described above is away;
- (d) The usufruct of fixed property, or
- (e) The fiduciaries of fixed property;

**“Trade Refuse”** means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

#### **Domestic refuse removal**

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### **REFUSE REMOVAL BY-LAW**

**113**

- 2. The Municipality shall provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

#### **Use of service compulsory**

- 3. Every occupier of the property shall make use of the service for the removal and disposal of domestic refuse provided by the Municipality in respect of all domestic refuse which emanates from such property.

#### **Municipality to remove refuse**

- 4. No person other than the Municipality or person authorized thereto by the Municipality shall remove domestic refuse from any property or dispose of it.

#### **Accumulation and removal of domestic refuse**

- 5. (1) Subject to the provisions of subsection (6) hereunder the Municipality may require from every occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the Municipality and with a closefitting lid and two handles for the accumulation of domestic refuse.
- (2) If the Municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of domestic refuse normally accumulated on such property, require the occupier or occupiers thereof to provide as many containers as it may determine on such property.
- (3) If a container used by an occupier does not comply with the requirements of the Municipality, it may instruct such occupier to obtain and use some other suitable container.

- (4) The Municipality may, where it considers it necessary or desirable, of its own accord supply containers to particular classes of occupiers, or on particular classes of properties, or in particular areas, in which event the cost of such container shall be recovered from the owners of the properties.
- (5) All containers shall be equipped with bin liners, unless the Municipality determines otherwise.
- (6) The Municipality may, generally or in particular, issue instructions to occupiers on the manner in which or the arrangements according to which refuse or refuse bags shall be

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## **REFUSE REMOVAL BY-LAW**

**114**

placed in containers, be removed therefrom, be tied and thereafter be placed for removal, and any disregard of such instructions shall be considered to be a contravention in terms of this By-law.

- (7) No material, including any liquid which, be reason of its mass or other property is likely to render such bin liners or containers too difficult for the Municipality's employees to handle or carry, shall be placed in such bin liners or containers.
- (8) The container or bin liners, or both, shall be removed by the Municipality at such intervals as the Municipality may deem necessary, only if such containers or bin liners, or both, have been put at the prescribed places as provided by the Municipality.
- (9) The Municipality shall not be liable for the loss of or for any damage to a container or bin liner.
- (10) In any case where the occupier of a property is not also the owner, the Municipality may hold the owner himself, instead of the occupier, liable for compliance with the provisions of this Bylaw.
- (11) The Municipality may, in specific cases, impose different directions other than the use of an 85 liter container.
- (12) The Municipality may lay down a policy with regard to the reclamation of refuse in which case directions may be used in terms of which certain types of refuse shall be separated and disposed of.

### **Accumulation of domestic refuse**

- 6. The owner or occupier of any property shall ensure that all domestic refuse generated on such property shall be accumulated only in a container, as determined by section 5, and in no other manner.

## **Littering**

7. No person shall:-

1. throw, drop, deposit or spill any refuse into or onto a public place, street, vacant stand, vacant erf, stream or water-course, or
2. sweep any refuse into a gutter on a public place or into any public street.

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## **REFUSE REMOVAL BY-LAW**

**115**

## **Pavements**

8. It shall be the duty of every owner or occupier of a shop or trade premises to ensure that the pavement in front of or abutting such shop or premises is kept clean and free of refuse or waste material emanating from such shop or premises or resulting from the delivery of goods to such shop or premises or the supply of sale of goods to the public by the occupier of such shop or premises.

## **Garden refuse**

9. (1) Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the Municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the Municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period. If it has sufficient facilities available, the Municipality may in its discretion and no application from the owner or occupier of property remove garden refuse therefrom at the cost of the owner or occupier in which case the Municipality may impose certain rules.

- (2) No garden may be dumped, kept or stored on any sidewalk or vacant ground.

## **Removal of bulky and industrial refuse**

10. (1) The occupier or, in the case of premises occupied by more than one person, the owner of premises in which bulky or industrial refuse is generated, shall ensure that such refuse is disposed of

in terms of this By-law within a reasonable period after the generation thereof.

- (2) Bulky and industrial refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site.
- (3) The Municipality does not accept any responsibility for the removal of bulky or industrial refuse.

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## **REFUSE REMOVAL BY-LAW**

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### **Builder's refuse**

- 11. Builder's refuse which may have accumulated in the course of construction, alteration, renovation or demolition of any structure or works shall be removed from the property concerned according to suitable arrangements to be made by the owner of such property. If there is any Municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

### **Trade refuse**

- 12. The Municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the Municipality at a charge fixed by the Municipality.

### **Disposal sites for domestic, garden and builder's refuse**

- 13. (1) The Municipality periodically sets aside and maintains a place or places where domestic, garden and builder's refuse shall be dumped. Any person dumping domestic, garden and builder's refuse in any other place shall be guilty of an offence.
- (2) The Municipality may, from time to time, determine tariffs for the dumping of certain types of refuse.

### **Ownership of refuse**

- 14. All refuse removed by the Municipality and all refuse on disposal sites controlled by the Municipality shall be the property of the Municipality, and no person who is not duly authorized by the Municipality to do so shall remove or interfere with such refuse.

## **Abandoned objects**

15. Anything other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition thereof, reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of the Municipality as it may deem fit.

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## **REFUSE REMOVAL BY-LAW**

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### **Liability**

16. (1) Where anything has been removed and disposed of the Municipality in terms of section 15, the person responsible shall be liable to pay the Municipality the charge fixed by it for such removal, disposal or custody.
- (2) For the purposes of subsection (1), the person responsible shall be:-
- (a) the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or put in the place from which it was so removed, unless he can prove he was not concerned in and did not know of its being put in such place, or
  - (b) any person by whom the object was put in the place aforesaid, or
  - (c) any person who knowingly permitted the object to be put in the said place.

### **Charges and deposit**

17. The charges payable to the Municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service shall deposit with the Municipality shall be determined by the Municipality.

### **Penalty**

18. Any person who contravenes or fails to comply with any provision of this By-law shall be guilty of an offence and liable upon conviction to:-
- (1) a fine of R1000,00 or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
  - (2) in the case of a continuing offence, to an additional fine of R2000,00 or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,

- (3) a further amount equal to any costs and expenses found by the Court to have been incurred by the Municipality as result of such contravention or failure.



## SANITARY BY –LAWS

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Sanitary By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### Definition

#### 1. In these by-law, unless the context otherwise indicates:-

**"1-in-50-years flood level"** means that level reached by flood waters resulting from a storm of a frequency of 1 in 50 years;

**"adequate" or "effective"** means

(a) adequate or effective in the opinion of the Municipality; or

(b) in relation to any document issued by the Council.

**"anti-siphonage pipe"** means any pipe or portion of a pipe provided for the protection, by ventilation, of the water seal of a trap against unsealing by siphonage or back pressure;

**"approved"** means approved by the Municipality in writing;

**"Authorised agent"** means any person or contractor officially authorised by the Municipality to act as the Municipality's agent;

**"building regulations"** means the National Building Regulations and other standards or regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

**"cleaning eye"** means any access opening to the interior of a discharge pipe or trap which is provided for the purposes of internal cleaning and which remains permanently accessible after completion of the drainage installation;

**"connection"** means the point where a drain is connected to the sewer connection;

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## SANITARY BY-LAW

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**"conservancy tank"** means a covered tank which is used for the reception and temporary retention of sewage and which requires emptying at intervals;

**"domestic effluent"** means effluent of prescribed domestic strength characteristics in respect of chemical oxygen demand and settle able solids, being appropriate to sewage discharges from domestic premises within the jurisdiction of the Municipality, but does not include industrial effluent;

**"drain"** means that part of a drainage installation, other than soil-water pipes, waste-water pipes, ventilation pipes and anti-siphonage pipes, of which ownership is vested in the owner of the premises and which has been laid in the ground and is used or intended to be used for conveying sewage to the sewer connection or to a common drain or a conservancy tank or septic tank which is situated on the premises;

**"drainage installation"** means an installation of which ownership is vested in the owner of the premises and includes any drain, soil-water pipe, stack, wastewater pipe, ventilation pipe, anti-siphonage pipe, soil-water fitting, waste-water fitting, mechanical appliance or any other appliance or fitting, or a combination of such drain, pipe, stack, fitting and appliance, for the collection and conveyance of sewage;

**"drainage work"** means any construction or reconstruction of, or any alteration or addition to, or any work done in connection with a drainage installation, but does not include any work undertaken solely for purposes of repair or maintenance;

**"effluent"** means any liquid, whether or not containing matter in solution or suspension;

**"Engineer"** means the professional engineer appointed by the Municipality to perform or exercise the functions, powers and duties in terms of these by-laws;

**"gully"** means a pipe fitting incorporating a trap into which waste water is discharged;

**"industrial effluent"** means effluent emanating from the industrial use of water, including, for purposes of these by-laws, any effluent other than domestic effluent or stormwater;

**"JASWIC"** means the Joint Acceptance Scheme for Water-Services Installation Components, which approves a list of water and sanitation installations, which list is obtainable from the Municipality;

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## **SANITARY BY-LAW**

**121**

**"manhole"** means any access chamber to the interior of a sewer provided for the purpose of maintenance and internal cleaning

**"owner"** means –

- (a) the person who from time to time is vested the legal title to the premises;
- (b) a person who receives the rent or profit of premises from a tenant or occupier of the premises, or who would receive such rent or profit if the premises were leased, whether for his or her own account or as an agent for a person entitled to the rent or profit;
- (c) where the person in whom the legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of the premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (d) in the case of premises for which a lease agreement of 30 years or more has been entered into, the lessee of the premises; or
- (e) in relation to –
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), the developer or the body corporate in respect of the common property; or
  - (ii) a section as defined in the Sectional Titles Act, 1986, the person in whose name the section is registered under the sectional title deed, and includes the lawfully appointed agent of such a person;

**"piece of land"** means –

(a) a piece of land registered in a deeds registry as an erf, stand, lot, plot or other area or as a portion or a subdivision portion of such an erf, stand, lot, plot or area; or

(b) a defined portion, not intended as a public place, or a piece of land which is held under surface right permit or under mining title, or which, being proclaimed land not held under mining title, is used for residential purposes or for purposes not incidental to mining operations;

**"plumber"** means a person who has passed a qualifying trade test in plumbing or has been issued with a certificate of proficiency for plumbing in terms of the Manpower Training Act, 1981 (Act 56 of 1981) as amended, or holds such other

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## SANITARY BY-LAW

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qualification as may be required under the South African Qualifications Authority Act, 1995 (Act 58 of 1995);

**"premises"** means any piece of land, the external surface boundaries of which are delineated on –

(a) a general plan or diagram registered in terms of the Land Survey Act, 1997 (Act 8 of 1997), or in terms of the Deeds Registries Act, 1937 (Act 47 of 1937); or

(b) a sectional plan registered in terms of the Sectional Titles Act, 1986; or

(c) a register held by a tribal authority;

**"professional engineer"** means a person registered in terms of the Engineering Profession Act, 2000 (Act 46 of 2000), as a professional engineer;

**"purified sewerage effluent"** means the water discharged from water purification works after purification, either into a water course or for the purpose of re-use.

**"sanitary fitting"** or **"sanitary appliance"** means any soil-water fitting and any waste-water fitting;

**"sanitation services"** has the meaning assigned to it in the Act and includes, for purposes of these by-laws, water for industrial purposes and disposal of industrial effluent;

**"septic tank"** means a tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

**"sewage"** means soil water, waste water, industrial effluent and other liquid waste, whether separately or together, but does not include storm water;

**"sewer"** means any pipe with fittings, of which ownership is vested in the Municipality, and which is designed and used or intended to be used for the conveyance of sewage, but does not include a drain;

**"sewer connection"** means that part of a sewer system which is vested in the Municipality and which connects a drain to a sewer;

**"soil water"** means any liquid containing human or animal excreta;

**"soil-water fitting"** means any fitting used for the reception and discharge of soil water;

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## SANITARY BY-LAW

123

**"Soil-water pipe"** means any pipe, other than a drain, used for the conveyance of soil water with or without waste water;

**"Stack"** means the main vertical component of a drainage installation or any part of the installation other than a ventilation pipe;

**"Storm water"** means any liquid resulting from natural precipitation or accumulation and includes rainwater, spring water and groundwater;

**"Tariff"** means the tariff of charges in respect of the Municipality's sewer services, as determined by the Municipality from time to time in terms of the relevant legislation;

**"The Act"** means the Water Services Act, 1997 (Act 108 of 1997), as amended from time to time;

**"Trap"** means a pipe fitting or portion of a sanitary appliance designed to retain a water seal in position;

**"Ventilation pipe"** means any pipe or portion of a pipe not conveying any liquid, which pipe or portion of a pipe leads to the open air at its highest point and is used to ventilate a drainage installation in order to prevent the destruction of water seals;

**"Waste water"** means used water that has not been polluted by soil water or industrial effluent, but does not include storm water;

**"Waste-water fitting"** means any fitting used for the reception and discharge of waste water;

**"Waste-water pipe"** means any pipe, other than a drain, used for the conveyance of waste -water only;

**"Waste-water treatment plant"** means any water works for the purification, treatment and/or disposal of effluent;

**"Water Act"** means the National Water Act, 1998 (Act 36 of 1998), as amended from time to time; and

**"Water seal"** means the water in a trap, which serves as a barrier against the flow of foul air or gas.

### **Standard of sanitation service**

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## **SANITARY BY-LAW**

**124**

2. Sanitation services provided by the Municipality will comply with the minimum standards set for the provision of sanitation services in terms section 9 of the Act.

### **Scope of by-laws**

3. (1) These by-laws apply to every sewer installation and drainage installation, and in particular to the operation and maintenance of such an installation in any new building or existing building, with or without any alterations or additions to an existing sewer installation or drainage installation, whether or not required by the Municipality.  
(2) Any sewer installation and drainage installation may at any time after its completion and commissioning be subjected to such inspection, approval, tests and control as the Municipality may deem fit or require.

### **Notices**

4. (1) Every notice, order or other document issued or served by the Municipality in terms of these by-laws is valid if signed by an official of the Municipality who is duly authorized to do so.  
(2) Any notice, order or other document issued or served in terms of these by-laws on any person shall be served in the following manner:
  - (a) the notice, order or other document, or a true copy of the notice, order or document, shall be delivered personally to the person to whom it is addressed or shall be delivered at his or her last-known residence or place of business; or
  - (b) the notice, order or other document, or a true copy of the notice, order or document, shall be posted to the person to whom it is addressed at his or her last-known residence or

place of business, in which case it will be deemed to have been served five days after it was posted.

- (3) In every notice, order or other document issued or served in terms of these by-laws, the premises to which the notice, order or document relates will be specified, but the person for whom it is intended may be referred to as "the owner" or "the occupier" if his or her name is not known.

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## **SANITARY BY-LAW**

**125**

### **Application for water services**

5. (1) No person is entitled access to water services unless -
- (a) an application has been made to the Municipality on the form prescribed in terms of the Municipality's bylaws relating to credit control and debt collection; and
  - (b) the application has been approved by the Municipality.
- (2) Sanitation services rendered by the Municipality are subject to these by-laws and the conditions contained in the relevant agreement.

## **TYPES OF SANITATION SERVICES**

### **On-site sanitation services and associated services**

#### **Application**

6. (1) If an agreement for on-site sanitation services and associated services in accordance with subsection 6(2) exists and no municipal infrastructure in connection with the services exists for premises, the owner must immediately, with the approval of the Municipality and at his or her cost, install appropriate on-site sanitation services in accordance with the specifications of the Municipality.
- (2) The Municipality may specify the type of on-site sanitation services to be installed.

#### **Septic tanks and treatment plants**

7. (1) No person may construct, install, maintain or operate a septic tank or other plant for the treatment, disposal or storage of sewage

without the prior written consent of the Municipality. Such consent is granted without prejudice to any of the provisions of these bylaws or any other relevant laws or by-laws.

- (2) The removal and handling of any sewage sludge must be in accordance with the relevant health laws and by-laws.

### **French drains**

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## **SANITARY BY-LAW**

**126**

8. The Municipality may, at its discretion and on such conditions as it may prescribe, having regard to the quantity and nature of the effluent and the nature and permeability of the soil, permit the disposal of waste water or other effluent by means of French drains, soakage pits or other approved works.

### **Ventilated improved pit latrines**

9. The Municipality may, at its discretion and on such conditions as it may prescribe, having regard to the nature and permeability of the soil, the depth of the water table, the size of and access to the site and the availability of a piped water supply, permit the disposal of human excrement by means of a ventilated improved pit latrine constructed and maintained in accordance with the specifications of the Municipality and located in a position indicated by the Municipality.

### **Conservancy tanks**

10. (1) The Engineer may, at his/her discretion, permit the owner of premises to construct a conservancy tank and ancillary appliances for the retention of soil water or such other sewage or effluent as the Engineer may decide, and the tank and appliances must be of such capacity and be located at such level as the Engineer may prescribe.
- (2) No rainwater or storm water and no effluent other than that which the Municipality has permitted in terms of subsection (1) may be discharged into a conservancy tank.
- (3) The Municipality may, at its discretion, having regard to the position of a conservancy tank or to the point of connection for a removal vehicle, make it a condition for the emptying of the tank that the owner or user of the tank indemnifies the Municipality in writing against any sum which the municipality may become liable to pay



to any person as a direct or indirect result of the rendering of the service in respect of the tank.

- (4) The Municipality is entitled to empty or to draw off part of the contents of a conservancy tank at any reasonable time on any day of the week and in such manner as it may decide, having regard to the general requirements of the service in respect of the tank and in particular to the necessity for avoiding separate or unnecessary journeys by the Municipality's removal vehicle or anyone else's removal vehicle.

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## **SANITARY BY-LAW**

**127**

- (5) Where the Municipality's removal vehicle or anyone else's removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner of the premises on which the conservancy tank is installed must –
  - (a) provide a roadway for such purpose of a width of at least 3,5m, so hardened as to be capable of withstanding a wheel load of 4 metric tons in all weather; and
  - (b) ensure that no gateway through which the vehicle is required to pass to reach the tank is less than 3, 5 m wide.
- (6) The owner or occupier of premises on which a conservancy tank is installed must at all times maintain the tank in good working order and condition to the satisfaction of the Engineer.

### **Sewage delivered by road haulage**

#### **Acceptance of sewage delivered by road haulage**

- 11. The Engineer may, at his or her discretion and subject to the conditions that he or she may specify, accept sewage for disposal which is delivered by road haulage to a waste-water treatment plant of the Municipality or another site approved by the Engineer.

#### **Written permission for delivery of sewage by road haulage**

- 12. (1) No person may discharge into a waste-water treatment plant of the Municipality or another approved site sewage delivered by road haulage, except with the written permission of the Engineer and subject to the period and the conditions that may be imposed in the written permission.

- (2) The charges for any sewage delivered for disposal to the Municipality's wastewater treatment plants or to approved sites shall be assessed by the Municipality in accordance with the prescribed tariffs.

### **Conditions for delivery of sewage by road haulage**

13. When sewage is delivered by road haulage to a waste-water treatment plant of the Municipality or to an approved site for disposal -  
(a) the time and place of delivery must be arranged with the Engineer;  
and

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## **SANITARY BY-LAW**

**128**

- (b) the nature and composition of the sewage must be established to the satisfaction of the Engineer prior to the discharge of the sewage, and no person may deliver sewage that does not comply with the standards laid down in terms of these by-laws.

### **Withdrawal of permission for delivery of sewage by road haulage**

14. The Engineer may withdraw any permission contemplated in section 12(1) after giving the person to whom permission is granted at least 14 days' written notice of the Municipality's intention to withdraw the permission if that person –
- (a) fails to ensure that the sewage delivered conforms to the standards prescribed in Appendix A to these by-laws or in the written permission;  
or
- (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these by-laws contravenes any provisions of these by-laws, or fails or refuses to comply with any condition imposed on him or her in any permission granted to him or her.

Connection to municipal sewer system

Connection to sewer

15. (1) No part of any drainage installation may extend beyond the boundary of the piece of land on which the building or part of the building served by the drainage installation is erected, provided that, where the Municipality considers it necessary or expedient to do so, the Municipality may permit the owner to lay a drain, at the owner's own expense, through an adjoining piece of land on submission of proof of registration of the appropriate servitude or of a notarial deed of joint drainage, as the Municipality may require.

- (2) As soon as the Municipality has provided a sewer connection, the owner must connect the drain to the sewer at his or her own expense.
- (3) Any alternative or additional sewer connection required by the owner is subject to the approval of the Engineer and must be effected at the owner's expense in accordance with the standards and specifications of the Engineer.
- (4) Except as may be otherwise authorized by the Municipality in writing, no person other than a plumber or an official duly authorised by the Engineer to do so may install a sewer connection

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to a sewer. Any such sewer connection must be installed in accordance with the specifications of the Engineer.

- (5) No person may permit any substance whatsoever, other than clean water for testing purposes, to enter a drainage installation before the drainage installation has been connected to the sewer.
- (6) The Engineer may authorise and approve, at his or her sole discretion, the conveyance of sewage from two premises or more by means of a common drain to the sewer connection.
- (7) After the completion of every drainage installation and after the completion of any alteration to a drainage installation, the plumber responsible for the execution of the work must submit to the building inspection section of the Municipality a certificate certifying that the work was completed to the standards set out in the building regulations, these by-laws and any other relevant law or by-laws.

### **Disconnection of drainage installations and conservancy or septic tanks**

- 16. (1) If an existing on-site sanitation system is no longer required for the storage or treatment of sewage, or if permission for the storage or treatment is withdrawn, the owner must cause the system to be disconnected and to be either completely removed or completely filled with earth or other suitable material, provided that the Engineer may require a tank to be otherwise dealt with or may permit the tank to be used for some other purpose, subject to the conditions the Engineer may consider necessary, regard being to all the circumstances of the case.
- (2) After all the requirements of the building regulations in regard to disconnection have been complied with and, at the request of the

owner, the Engineer shall issue a certificate to the effect that -  
(a) the disconnection has been completed in terms of the building regulations; and

(b) any charges levied in respect of the disconnected portion of the drainage installation will cease to be levied with effect from the first day of the month following the issue of

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the certificate provided that until the certificate is issued by the Engineer any such charges shall continue to be levied.

- (3) When a drainage installation is disconnected from a sewer, the Engineer shall seal the opening made and shall recover from the owner the cost of the work in terms of section 42.
- (4) Any person who without the permission of the Municipality breaks or removes or causes or permits the breakage or removal of a seal installed in terms of subsection (3) is guilty of an offence under these by-laws.
- (5) Where a drainage system is connected to or disconnected from the sewer system during the month, the charge, excluding the fixed charge of every erf, stand, premises or other area, which has or has no improvements or which can be connected to a sewer in the opinion of the Municipality, shall be calculated as if the connection had been made on the first day of the month following the month in which the connection or disconnection was effected.

**Materials to be used in sanitation to be authorised**

17. (1) No person may, without the prior written authority of the Municipality, install or use a pipe or fitting in a drainage or sewer installation within the Municipality's area of jurisdiction, unless the pipe or fitting is included in the schedule of approved sanitation pipes and fittings that is compiled by the Municipality.

(2) Application for the inclusion of a pipe or fitting in the schedule referred to in subsection (1) must be made on the form prescribed by the Municipality.

(3) A pipe or fitting may be included in the schedule referred to in subsection (1) if -

- (a) the pipe or fitting bears the standardisation mark of the SABS in respect of the relevant SABS specification issued by the SABS; or
- (b) the pipe or fitting bears a certification mark issued by the SABS to certify that the pipe or fitting complies with an SABS mark specification or a provisional specification issued by the SABS, provided that no certification marks are issued for a period exceeding two years; or

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(c) the pipe or fitting has been issued with a JASWIC acceptance certificate.

(4) The Municipality may, in respect of any pipe or fitting included in the schedule referred to in subsection (1), impose such additional conditions as it may deem necessary in respect of the use or method of installation of the pipe or fitting.

(5) A pipe or fitting shall be removed from the schedule referred to in subsection (1) if –

- (a) the pipe or fitting no longer complies with the criteria upon which its inclusion in the schedule was based; or
- (b) the pipe or fitting is no longer suitable for the purpose for which its use was accepted for inclusion in the schedule.

(6) A current schedule as referred to in subsection (1) shall be available for inspection at the office of the Municipality at any time during the Municipality's working hours.

(7) The Municipality may sell copies of the schedule referred to in subsection (1) at the prescribed charge.

### **Drainage work that does not satisfy the requirements**

18. (1) Where a drainage installation that has been constructed or drainage work that has been carried out fails to comply in any respect with any of the provisions of the building regulations 13 or these by-laws, the owner must, notwithstanding the fact that he or she may have received approval for the plans or the installation or work in terms of the building regulations of previous by-laws, carry out, on receiving written notice from the Municipality, the

repairs, replacements, alterations or maintenance work in respect of the installation or work within the period specified in the notice.

- (2) When, in the opinion of the Municipality, a nuisance exists owing to the emission of gas from a trap or sanitary fitting or any other part of a drainage installation, the Municipality may require the owner, at his or her expense, to take such action as may be necessary to prevent the recurrence of the nuisance.
- (3) Where any sewage, after being discharged into a drainage installation, enters or overflows a soil-water fitting or wastewater fitting connected to the drainage installation or leaks out somewhere from the drainage installation, whether by reason of

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surcharge, back pressure or any other circumstance, the Municipality may, by notice in writing, require the owner to carry out within the period specified in the notice the work necessary to abate and to prevent any recurrence of the entry, overflow or leakage of sewage.

- (4) Instead of serving the notice contemplated in subsection (1) or (3), or where such a notice has not been complied with within the period prescribed in the notice, the Municipality may, without prejudice to its right also prosecute the person or body to whom the notice was directed because of an infringement of the building regulations or these by-laws –
  - (a) proceed itself to carry out such alterations, removals or other work as it may deem necessary for compliance with the provisions of the building regulations or these by-laws; and
  - (b) recover, in terms of section 42, the cost of the alterations, removals or other work from the owner by the ordinary process of law.

### **Prohibited construction and work**

- 19. (1) Any person who, without the prior consent in writing of the Municipality –
  - (a) erects or causes to be erected any building or other structure over a sewer or pipe vested in the Municipality or constructed under the authority of the Engineer;
  - (b) excavates, opens up or removes or causes to be excavated,

opened up, or removed the ground under or near to such a sewer or pipe;

(c) makes or causes to be made any opening into such a sewer or pipe for the purpose of discharging sewage into the sewer or pipe or for another purpose; or

(d) damages or destroys or causes to be damaged or destroyed such a sewer or pipe or any works or things in connection with the sewer or pipe, is guilty of an offence.

(2) Where an offence in terms of subsection (1) has been committed, the Municipality may alter, demolish or otherwise deal with the

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building or structure that has been erected, fill in and make good any damage caused, or close any opening in the sewer or pipe, as the Municipality may think fit, and the expenses incurred shall, together with a fine, be recovered from the offender in a competent court.

### **Maintenance**

20. Where any part of a drainage installation is used by two owners or more or two occupiers or more, they are jointly and severally liable in terms of this section for the maintenance and repair of the drainage installation.

21. The owner of the premises must ensure that all sewer manholes on the premises are permanently visible and accessible.  
Sewer blockages

22. (1) No person may cause or permit such an accumulation of grease, oil, fat, solid matter or any other substance in any trap, tank or fitting as to cause the blockage or ineffective operation of the trap, tank or fitting.

(2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation on the premises, he or she must take immediate steps to have the blockage cleared or removed.

(3) When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he or she must immediately inform the Municipality of the blockage.

(4) The Engineer is entitled at his or her discretion to clear or remove, whether or not at the request of the owner of the premises, a blockage from a drainage installation and to recover the cost of the



clearing or removal from the owner in accordance with section 42.

- (5) Should the clearing or removal by the Municipality of any blockage in a sewer or drainage installation necessitate the removal or the disturbance of any paving, lawn or other artificial surfacing on any premises, the Municipality is not liable for the reinstatement of the paving, lawn or other artificial surfacing.
- (6) The owner of any premises is responsible for ensuring that all cleaning eyes and manholes on the premises are at all times visible.

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- (7) Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and should the Engineer be reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation is liable for the cost of clearing or removing the blockage, and the Municipality may recover the cost from the owner in accordance with section 42.
- (8) Where a blockage has been cleared or removed from a drain or portion of a drain that serves two pieces of land or more, the charge for the clearing or removal of the blockage is recoverable in equal proportions from each of the owners of the pieces of land, provided that the owners are jointly and severally liable for the whole charge.

### **Interference with or damage to sewers, waste-water treatment plants, etc**

- 23. Any damage caused to the Municipality's sewers or any part of its sewers or to the Municipality's waste-water treatment plants through, or in consequence of, non-compliance with or contravention of any provision of the building regulations or these by-laws shall be rectified or repaired by the Municipality at the expense of the person responsible for the noncompliance or contravention or for causing or permitting the noncompliance or contravention, and the cost of rectifying or repairing the damage shall be determined by the Engineer.

### **Entry onto premises**

- 24. (1) An officer authorised by the Municipality has the right to enter upon any premises at any reasonable time in order to take samples of or test sewage or industrial effluent or to carry out any inspection or work in connection with a drainage installation that the Municipality may deem necessary.
- (2) In respect of an officer entering on premises for the purposes of

subsection (1), the owner or occupier of the premises is guilty of an offence under these by-laws if he or she –

- (a) denies the officer entry to the premises or causes or permits any other person to deny the officer entry;
- (b) obstructs the officer in the performance of the officer's duties or causes or permits the officer to be so obstructed;
- (c) withholds information that is required by the officer to carry out the officer's duties or causes or permits any other person to withhold such information; or

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- (d) knowingly gives the officer false information or causes or permits any other person to give the officer such information.

**Mechanical food-waste or other disposal units**

25. (1) No person may incorporate into a drainage installation a mechanical food-waste or other disposal unit or garbage grinder that has a power capacity in excess of 1 kW, except with the written permission of the Engineer and subject to the conditions that may be imposed in the written permission.
- (2) The Engineer may require the owner or occupier of any premises on which a food-waste or other disposal unit or a garbage grinder has been installed, or the owner of such a unit or grinder, to remove, repair or replace the unit or grinder if, in the opinion of the Engineer, the unit or grinder is functioning inefficiently or is impairing the functioning of the Municipality's sewer system.
- (3) The owner or occupier referred to in subsection (2) must, upon removal of a unit or grinder, notify the Municipality within 14 days of the removal.
- (4) The charges as prescribed in the applicable tariff must be paid in respect of the discharge of a food-waste or other disposal unit or garbage grinder referred to in subsection (1).

**Grease traps**

26. A grease trap of the approved type, size and capacity must be provided instead of a gully to take the discharge of waste water from every sink or other fitting in –
- (a) a building in respect of which the waste water is disposed of in

French drains or other similar works; and

- (b) any place where, in the opinion of the Municipality, the discharge of grease, oil and fat is likely to cause an obstruction in the flow in the sewers or drains or to cause an interference with the proper operation of a waste-water treatment plant.

### **Industrial grease traps**

27. (1) Industrial effluent that contains or, in the opinion of the Municipality, is likely to contain grease, oil, fat or inorganic solid matter in suspension must, before the effluent is allowed to enter any

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sewer, be passed through one or more tanks or chambers of an approved type, size and capacity designed to intercept and retain the grease, oil, fat or solid matter.

- (2) Oil, grease or any other substance that is contained in any industrial effluent or other liquid and that gives off an inflammable or noxious vapour at a temperature of or exceeding 20 °C must be intercepted and retained in a tank or chamber so as to prevent entry of the oil, grease or substance into the sewer.

- (3) A tank or chamber referred to in subsection (1) must comply with the following requirements:

- (a) The tank or chamber must be -

- (i) of adequate capacity;
- (ii) constructed of hard, durable materials; and
- (iii) watertight when completed.

- (b) The water seal of the discharge pipe of the tank or chamber must be not less than 300 mm in depth.

- (c) The tank or chamber must be provided with such a number of manhole covers as may be adequate for the effective removal of grease, oil, fat and solid matter.

- (4) A tank or chamber referred to in subsection (1) must be cleaned regularly to remove grease, oil, fat and solid matter, and the person discharging effluent into the tank or chamber must maintain a register in which the following must be recorded and appear:

- (a) The dates on which the tank or chamber was cleaned;

- (b) the name of the company employed to clean the tank or chamber; and
- (c) a certificate from the cleaning company certifying that the tank or chamber has been cleaned and stating the manner in which the contents of the tank or chamber were disposed of.

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### **Mechanical appliances for lifting sewage**

28. (1) Every person must, before installing any mechanical appliance for the raising or transfer of sewage in terms of the building regulations, apply in writing to the Engineer for permission to install the appliance, and application must be made on the form included in the Municipality's specifications for the design of pump stations.
- (2) The form prescribed in subsection (1) must be completed by a professional engineer who is fully conversant with the mechanical details of the appliance, and the undertaking annexed to the form must be signed by the owner of the premises.
- (3) The application form referred to in subsection (1) must be accompanied by drawings prepared in accordance with the relevant provisions of the building regulations, and the drawings must show:-
- (a) details of the compartment containing the appliance, the sewage storage tank, the stilling chamber and the position of the appliance, tank and chamber; and
  - (b) the position of the drains, ventilation pipes, rising main and the sewer connection.
- (4) Notwithstanding any permission given in terms of subsection (1), the Municipality is not liable for any injury or damage to life or property caused by the use or malfunctioning of an appliance or by any other condition arising from the installation or operation of the appliance, which appliance must be designed by a professional engineer who remains liable.
- (5) Every mechanical appliance installed for the raising or transfer of sewage must be specifically designed for that purpose and must be fitted with a discharge pipe, sluice valves and non-return valves

located in approved positions.

- (6) Unless otherwise permitted by the Engineer, two mechanical appliances for the raising or transfer of sewage must be installed, and each appliance must be controlled so that one will begin to function automatically and immediately in the event of the failure of the other.
- (7) Every mechanical appliance forming part of a drainage installation must be located and operated in such a manner as not to cause

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any nuisance through noise or smell or otherwise, and every compartment containing such an appliance must be ventilated effectively.

- (8) The maximum discharge rate from any mechanical appliance and the times between which the discharge may take place must be as prescribed by the Engineer who may, at any time, require the owner of the premises to install such fittings and regulating devices as may be necessary to ensure that the prescribed maximum discharge rate is not exceeded.

- (9) (a) Except where sewage storage space is incorporated as an integral part of a mechanical appliance, a sewage storage tank must be provided in conjunction with the appliance.

- (b) Every sewage storage tank required in terms of paragraph

- (a) must meet the following requirements:

- (i) The sewage storage tank must be constructed of hard, durable materials and must be watertight, and the internal surfaces of the walls and floor of the tank must be rendered smooth and impermeable.
- (ii) The sewage storage tank's storage capacity below the level of the inlet must be equal to the quantity of sewage that can be discharged into the tank within a period of 24 hours or 900 litres, whichever is the greater quantity.
- (iii) The sewage storage tank must be designed so that the maximum proportion of its sewage content is emptied during each discharge cycle of the mechanical appliance.

- (10) If a mechanical appliance consists of a pump, the starting

mechanism must be set for pumping to commence when the volume of sewage contained in the storage tank is equal to not more than one fifth of the tank's storage capacity.

- (11) When required by the Engineer, a stilling chamber must be installed between the outlet of the mechanical appliance and the connecting drain or sewer connection, as the case may be, and such a chamber must have a depth of not less than 1 500 mm.
- (12) Every storage tank and stilling chamber must be provided with a ventilation pipe in accordance with the Engineer's specifications.

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### **Swimming pools**

- 29. No water from a swimming pool may, without the prior written permission of the Municipality, be discharged directly or indirectly over or into any road, gutter or storm water drain of which ownership is vested in the Municipality. The backwash water from a swimming pool may be discharged into the drainage system on the premises on which the pool is situated.

### **Protection from ingress of flood waters**

- 30. Where a development is situated in the 1-in-50-years flood plain, the top level of all service access holes, inspection chambers and gullies must be above the 1-in-50-years flood level.

### **Storm water not to enter sewers**

- 31. No person may discharge or cause or permit to be discharged any substance other than sewage into a drainage installation.  
Sewage or other pollutants not to enter storm water drains
- 32. (1) The owner or occupier of any piece of land on which steam or any liquid, other than potable water, is stored, processed or generated must provide all the facilities necessary to prevent any discharge, leakage or escape of such liquid into any street, storm water drain or watercourse, except where, in the case of steam, the Municipality has specifically permitted such a discharge.
- (2) Where the hosing down or the flushing by rainwater of an open area on any private premises is, in the opinion of the Municipality, likely to cause the discharge of objectionable matter into a street gutter, storm water drain, river, stream or other watercourse, whether natural or artificial, or to contribute to the pollution of such a watercourse, the Municipality may instruct the owner of the premises to take, at his or her cost, the measures, by way of the owner's alteration of the drainage installation or roofing of the area,

it may consider necessary to prevent or minimize the discharge or pollution.

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### **INDUSTRIAL EFFLUENT**

#### **Permission to discharge industrial effluent**

33. (1) No person may discharge or cause or permit to be discharged into any sewer any industrial effluent or other liquid or substance other than soil water or waste water without the written permission of the Municipality first being obtained, and then only in strict compliance with all of the conditions of the permission.
- (2) Every person must, before discharging any industrial effluent into a sewer, apply in writing to the Municipality for permission to discharge the effluent and must thereafter furnish such additional information and submit such samples as the Municipality may require.
- (3) The Municipality may, at its discretion, grant permission for the discharge of industrial effluent from any premises into any sewer, having regard to the capacity of the sewers, the mechanical appliance used for the conveyance of the sewage or the wastewater treatment plant, whether or not the plant is vested in the Municipality, subject to the conditions that the Municipality deems fit to impose, including the payment of any charge determined in terms of the tariff.
- (4) Any person to whom permission has been granted in terms of subsection (3) to discharge industrial effluent into a sewer must, before doing anything or causing or permitting anything to be done that may result in a change in the quantity of the discharge or nature of the effluent, notify the Municipality in writing of the date on which the proposed change will take place and of the nature of the proposed change.
- (5) Any person who discharges or causes or permits to be discharged any industrial effluent into a sewer without having first obtained

permission to do so in terms of subsections (3) and (4) is guilty of an offence and liable –

- (a) in addition to any penalties, to such charge as the Municipality may assess for the conveyance and treatment of the effluent so discharged; and
- (b) for any damage caused as a result of the unauthorised discharge.

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- (6) Without prejudice to its rights in terms of subsection (5) or section 35(2)(c), the Municipality is entitled to recover from any person who discharges into a drain or sewer any industrial effluent or any substance that is prohibited or restricted in terms of section 35 or that has been the subject of an order issued in terms of section 35(2) all costs, expenses or charges incurred or to be incurred by the Municipality as a result of any or all of the following:
  - (a) Injury to people or damage to the sewer, to any waste-water treatment plant or mechanical appliance or to any property whatsoever, which injury or damage is as a result of the breakdown, either partial or complete, of any waste-water treatment plant or mechanical appliance, whether under the control of the Municipality or not; or
  - (b) a prosecution in terms of the Water Act, or any action against the Municipality consequent on a partial or complete breakdown of any waste-water treatment plant or mechanical appliance caused directly or indirectly by the discharge, including fines and damages which may be imposed or awarded against the Municipality.
- (7) (a) Owing to a change in circumstances arising from a change in the method of sewage treatment or the introduction of new, revised, stricter or other standards by the Municipality or in terms of the Water Act, or as a result of any amendment to these by-laws or for any other reason, the Municipality may from time to time or at any time –
  - (i) review, amend, modify or revoke any permission given or any conditions attached to such permission;
  - (ii) impose new conditions for the acceptance of industrial effluent into the sewer; and



- (iii) prohibit the discharge of any or all of the industrial effluent into the sewer.
- (b) The Municipality shall give adequate written notice in advance of its intention in terms of paragraph (a) to review, amend, modify or revoke the permission or conditions, to impose new conditions or to prohibit the discharge, provided that on the expiration of the period of such notice the previous permission or conditions, as the case may be, fall

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away and the new or amended conditions, if any, apply immediately.

### **Control of industrial effluent**

- 34. (1) The owner or occupier of any premises from which industrial effluent is discharged into a sewer must provide adequate facilities such as overflow level detection devices, standby equipment, overflow catch-pits or other appropriate means to effectively prevent the accidental discharge into a sewer, whether through the negligence of operators, power failure, failure of equipment or control gear, overloading of facilities, spillage during loading or unloading or for any other reason, of any substance that is prohibited or restricted or has properties outside the limits imposed by these by-laws.
- (2) If the owner or occupier of any premises on which industrial effluent originated intends treating the effluent before discharging it, he or she must obtain the prior written permission of the Engineer.
- (3) The Municipality may, by notice served on the owner or occupier of premises from which industrial effluent is discharged, require the owner or occupier to, without prejudice to any other provision of these by-laws; do all or any of the following:
  - (a) The owner or occupier must subject the effluent, before it is discharged into the sewer, to such pre-treatment as will ensure that the effluent at no time fails to conform in all respects with the requirements of section 35(1), or the owner or occupier must modify the effluent cycle of the industrial process to an extent and in a manner which, in the opinion of the Municipality, is necessary to enable the waste-water treatment plant receiving the effluent, whether the plant is under the control of the Municipality or not, to produce treated effluent that complies with any standards which may

be laid down in respect of waste water treatment plants in terms of the Water Act.

- (b) The owner or occupier must restrict the discharge of effluent to certain specified hours and restrict the rate of discharge to a specified maximum and must install at his or her own expense such tanks, appliances and other equipment as, in the opinion of the Municipality, may be necessary or adequate for compliance with the restrictions.

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- (c) The owner or occupier must install a separate drainage installation for the conveyance of industrial effluent and must discharge the effluent into the sewer through a separate connection as directed by the Municipality, and the owner or occupier must refrain from discharging the industrial effluent through any drainage installation intended or used for the conveyance of domestic sewage or from discharging any domestic sewage through the separate installation for industrial effluent.
- (d) The owner or occupier must construct, at his or her own expense, in any drainage installation conveying industrial effluent to the sewer, one or more inspection, sampling or metering chambers of such dimensions and materials and in such positions as the Municipality may prescribe.
- (e) The owner or occupier must pay, in respect of the industrial effluent discharged from the premises, such charge as may be determined in terms of the tariff, provided that where, owing to the particular circumstances of a case, the actual chemical oxygen demand (COD) or permanganate value (PV) and the concentration of metals of the effluent cannot be assessed by means of the method of assessment prescribed by the SABS, the Engineer may adopt an alternative method of assessment that reflects the said value, and the Engineer shall accordingly determine the charge payable in terms of the tariff.
- (f) The owner or occupier must provide all information that may be required by the Engineer to enable the Engineer to determine the charges payable in terms of the tariff.
- (g) For the purposes of paragraph (f), the owner or occupier must provide and maintain, at his or her own expense, a meter measuring the total quantity of water which is drawn from any borehole, spring or other natural source of water, excluding that of the Municipality, and which is used on the

property and discharged as industrial effluent into the sewer.

### **Prohibited discharges**

35. (1) No person may discharge or cause or permit the discharge or entry into any sewer of any sewage, industrial effluent or other liquid or substance which –

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- (a) in the opinion of the Engineer, may be offensive to or may cause a nuisance to the public;
- (b) is in the form of steam or vapour or has a temperature exceeding 44 °C at the point where it enters the sewer;
- (c) has a pH value less than 6,0 or greater than 10,0;
- (d) contains any substance whatsoever that is likely to produce or emit explosive, flammable, poisonous or offensive gases or vapours in any sewer;
- (e) contains a substance having a flashpoint of less than 93 °C or which emits a poisonous vapour at a temperature below 93 °C;
- (f) contains any material whatsoever, including oil, grease, fat or detergents, that is capable of causing interference with the proper operation of a waste-water treatment plant and the Municipality's sewer system;
- (g) shows any visible signs of tar or associated products or distillates, bitumen's or asphalts;
- (h) contains a substance in such concentration as is likely in the final, treated effluent from a waste-water treatment plant to produce an undesirable taste after sterilization or an undesirable odour or colour, or excessive foam;
- (i) exceeds any of the limits or concentrations of substances given in Appendix A to these by-laws, provided that the Municipality may approve greater limits or concentrations for such period or on such conditions as it may specify after consideration of the effect of dilution in the sewer and of the effect of such industrial effluent or other liquid or substance

on the sewer or on any sewage treatment process if the Municipality is satisfied that in the circumstances the discharge of the industrial effluent or other liquid or substance will not –

- (i) harm or damage any sewer, mechanical appliance, waste-water treatment plant or equipment;
- (ii) prejudice the use of sewage effluent for re-use; or

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- (iii) adversely affect any waters into which purified effluent is discharged, or any land or crops irrigated with the purified effluent; and
- (j) contains any substance whatsoever, which, in the opinion of the Engineer –
- (i) is not amenable to treatment at a waste-water treatment plant and which causes or may cause a breakdown or inhibition of the normal sewage treatment processes;
- (ii) is or may be amenable to treatment only to such degree as to prevent the final, treated effluent from the waste-water treatment plant from satisfactorily complying in all respects with any requirements imposed in terms of the Water Act; or
- (iii) whether listed in the relevant appendix to these bylaws or not, either alone or in combination with other matter may –
- (aa) generates or constitutes a toxic substance detrimental to the health of persons who are employed at the waste-water treatment plant or who enter the Municipality's sewers or manholes in the course of their duties;
- (bb) be harmful to sewers, waste-water treatment plants or land used for the disposal of purified sewage effluent; or
- (cc) adversely affect any of the processes whereby sewage is purified or any re-use of purified

sewage effluent.

- (2) (a) Any person who receives from an official duly authorised thereto by the Municipality a written order instructing him or her to stop discharging into the sewer any substance referred to in subsection (1) must immediately stop such discharge.
- (b) Any person who contravenes the provisions of subsection (1) or who fails to comply with an order issued in terms of paragraph (a) is guilty of an offence.

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- (c) Notwithstanding the provisions of paragraph (b), if any person fails to comply with the terms of an order served on him or her in terms of paragraph (a) and if the discharge is in the opinion of the Engineer likely to cause damage to any sewer or mechanical or other appliance or to seriously prejudice the efficient operation of any waste-water treatment plant, the Municipality may, after further written notice, refuse to permit the discharge of the industrial effluent into the sewer until the industrial effluent complies in all respects with the Municipality's requirements as prescribed in terms of these by-laws. Any person who has been refused such permission to discharge industrial effluent into a sewer must immediately stop the discharge and, if he or she fails to do so, the Municipality may prevent him or her from proceeding with the discharge.

## **CHARGES FOR ALL SERVICES**

### **Prescribed tariffs and charges for sanitation services**

- 36. (1) All charges payable in respect of sanitation services, including but not restricted to connection charges, fixed charges or any additional charges or interest, shall be set by the Municipality from time to time in accordance with –
  - (a) its rates and tariff policy;
  - (b) any relevant by-laws; and
  - (c) any regulations under national or provincial legislation.
- (2) Charges may differ for the different categories of customers and users of services and according to the types and levels of services, the quantity of services, the infrastructure requirements and the geographic areas.

- (3) The Municipality may, in addition to the tariffs or charges determined for sanitation services actually provided, levy a monthly fixed charge, an annual fixed charge or a once-off fixed charge where sanitation services are available, whether or not such services are consumed.

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## **SANITARY BY-LAW**

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### **Payment for sanitation services**

37. The owner or occupier of any premises with whom an agreement for water services has been entered into in terms of section 5 is liable for payment of all sanitation charges in accordance with the Municipality's by-laws relating to credit control and debt collection.  
Charges in respect of services associated with on-site sanitation services
38. The operation and maintenance of on-site sanitation systems and all costs pertaining to such operation and maintenance remain the responsibility and liability of the owner of the premises. The Municipality will not, under normal circumstances, render such operation and maintenance services. Should the Municipality, however, approve its rendering of such services –
- (a) charges in respect of the removal or collection of conservancy tank contents and night soil or the emptying of ventilated improved pit latrines cover all the operating and maintenance costs for the removal of the pit contents, the transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues;
- (b) charges in respect of the removal or collection of conservancy tank contents and night soil or the emptying of ventilated improved pit latrines are based on the volume removed by vacuum tank or otherwise; and
- (c) the Municipality may charge a prescribed fixed charge if the volume of the conservancy tank contents or night soil or the contents of the ventilated improved pit latrines cannot be quantified.

### **Measurement of quantity of domestic effluent discharged**

39. (1) The quantity of domestic effluent discharged shall be determined by a percentage of the water supplied by the Municipality, provided that where the Engineer is of the opinion that such a percentage in

respect of specific premises is excessive, having regard to the purposes for which the water is consumed on those premises, the Municipality may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied.

- (2) Where premises are supplied with water from a source other than or in addition to the Municipality's water supply system, including abstraction from a river or borehole, the quantity of domestic effluent discharged shall be determined as a percentage of the total water used on the premises as may be reasonably estimated by the Municipality.

#### **Metering and assessment of the volume and composition of industrial Effluent**

40. (1) The quantity of industrial effluent discharged into the sewage disposal system shall –
- (a) where a measuring device is installed, be determined by the quantity of industrial effluent discharged from the premises as measured by means of that measuring device; or
  - (b) until such time as a measuring device is installed, be determined by a percentage of the water supplied by the Municipality to that premises.
- (2) (a) The Municipality may require the owner or occupier of any premises to incorporate, in such a position as the Municipality may determine, in any drainage installation conveying industrial effluent to a sewer, any control meter or gauge or other device of an approved type and in the control of the Municipality for the purpose of ascertaining to the satisfaction of the Municipality the tempo, volume and/or composition of the industrial effluent.
- (b) It is an offence for any person to bypass, open, break into or otherwise interfere with or to damage any meter, gauge or other device referred to in paragraph (a), provided that the Municipality may at its discretion enter into an agreement with any person discharging industrial effluent into a sewer to establish an alternative method of assessing the quantity

and tempo of effluent discharged.

- (3) The Municipality is entitled to install and maintain a meter, gauge or device referred to in subsection (2) at the expense of the owner of the premises on which it is installed.
- (4) Where premises are supplied with water from a source other than or in addition to the Municipality's water supply system, including

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abstraction from a river or borehole, the quantity of industrial effluent discharged shall be determined as a percentage of the total water used on the premises as may be reasonably estimated by the Municipality.

- (5) The owner of any premises on which there is situated a borehole used for a water supply for trade or industrial purposes must –
  - (a) register the borehole with the Municipality;
  - (b) provide the Municipality with full particulars of the discharge capacity of the borehole; and
  - (c) if the Municipality has reason to doubt the reliability of the particulars given, carry out at the expense of the owner or occupier, such tests on the discharge capacity of the borehole as may, in the opinion of the Municipality, be necessary for the purposes of these by-laws.
- (6) Where a portion of the water supplied to the premises forms part of the end product of a manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the Municipality may on application reduce the assessed quantity of industrial effluent.
- (7) In respect of any premises from which industrial effluent is discharged, the following conditions are applicable in connection with and to the calculation of charges payable to the Municipality for the treatment of industrial effluent:
  - (a) In respect of the application of the charges, wherever a person other than the owner occupies the property, the word "owner" refers to the owner of the property. The occupier of the property or, where charges are concerned, the owner and occupier, are jointly and severally liable for the charges, but the Municipality shall in the first instance levy the charge



against the occupier. The owner remains liable for all actions on his or her property.

- (b) The owner of any premises from which industrial effluent is discharged must, in addition to any other charges provided for in these by-laws or in any other law or by-law, pay to the Municipality a charge calculated in accordance with the provisions of these by-laws in respect of each cycle during which the discharge takes place, which charge must be paid within 30 calendar days after the Municipality has rendered

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## **SANITARY BY-LAW**

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an account for the charge. Where the full amount of the charge is not paid to the Municipality within 30 calendar days, a surcharge equal to the outstanding balance is payable to the Municipality.

- (c) In respect of any premises from which industrial effluent is discharged, each owner or occupier must conduct the prescribed tests on the industrial effluent according to a regular schedule as provided for in the permission to discharge industrial effluent and must report the results of the tests to the Municipality.
- (d) The Municipality may conduct random compliance tests on the industrial effluent to correlate those of the industry. If discrepancies are found between the values of the industry and those of the Municipality, the values of the Municipality shall be taken as correct after consultation with the industry involved. Further tests may be requested by the Municipality to determine the values for the industrial effluent discharge formula, which tests shall all be conducted at the cost of the industry.
- (e) The average of the values of the different analysis results of tests done on 24-hourly composite or snap samples of industrial effluent, taken during the period of charge, shall be used to determine the treatment charges payable.
- (f) In the absence of a complete daily set of 24-hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, shall be used to determine the industrial effluent charges payable.
- (g) The total system values for the treatment charges shall remain constant initially for a period of one month but in any case for a period of not more than 12 months from the date of commencement of the charges. After expiry of the period

values may be amended or revised from time to time depending on such changes in the analysis results or further samples as may be determined from time to time, provided that the Municipality may at its discretion in any particular case levy the minimum charges prescribed in paragraph (k) without taking any samples.

- (h) When, in terms of paragraph (d), the Municipality takes a sample, one half of the sample shall be made available to the owner or occupier.
- (i) For the purpose of calculating the quantity of effluent discharged from each point of discharge of effluent, the total quantity of water consumed on the premises shall be allocated to the several points of discharge as accurately as is reasonably practicable after consultation between the Municipality and the owner or occupier of the premises.
- (j) The costs of conveying and treating sewage and/or industrial effluent shall be determined by the Municipality and shall apply with effect from the date determined by the Municipality.
- (k) At the discretion of the Municipality, the charges for industrial effluent may be changed to a fixed monthly charge. The Municipality shall determine the minimum charge, taking into consideration the effluent strengths and the volume of the effluent.
- (l) When an inspection of the premises conducted by the municipality reveals non-compliance with these by-laws, the Municipality may give a written order for the rectification of the situation that is causing the non-compliance. The rectification must be executed diligently. If, at the time of a subsequent re-inspection, nothing has been done to rectify the situation, or no extension of time for the rectification has been requested from the Municipality in writing, an inspection fee shall be levied by the Municipality over and above the treatment charges or the disincentive charges. On receipt of an order on a third inspection the order may include a notice of cancellation of the permission to discharge industrial effluent and a date may be given for the connection to the Municipality's sewers to be sealed off.

## **Reduction in the quantity determined in terms of sections 39 and 40(1)(a)**

41. (1) A person is entitled to a reduction in the quantity determined in terms of sections 39 and 40(1)(a) in the event that the quantity of water on which the percentage is calculated was measured during a period when water was wasted or a leakage went undetected, provided that the person demonstrates to the satisfaction of the

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Municipality that the water was not discharged into the sewage disposal system.

- (2) For the purposes of this section, a reduction in the quantity is based on the quantity of water lost through leakage or wastage during the leakage period.
- (3) For the purposes of this section, the leakage period is either the period of measurement immediately prior to the date of the repair of the leak or the period of measurement during which the leak is repaired, whichever period results in the greater reduction in the quantity.
- (4) For the purposes of this section, the quantity of water lost is calculated as the consumption for the leakage period less the average consumption for the same length of time, which average consumption shall be based on the preceding three months' consumption. In the event of no consumption history being available, the average water consumption shall be determined by the Municipality, after due consideration of all relevant information.
- (5) No reduction in the quantity shall be made in terms of subsection
- (1) if the loss of water resulted directly or indirectly from the consumer's failure to comply with these or other by-laws or his or her contravention of these or other by-laws.

### **Other work**

42. Where any work other than that for which a fixed charge has been determined by the Municipality is done by the Municipality, the Municipality is entitled in terms of these by-laws to recover the costs from the person in respect of whom the work was done, and a sum to be determined by the Municipality may be included in such costs to cover all expenditure reasonably incurred by the Municipality.

### **Offences and penalties**

## **Penalties**

43. Subject to any provisions of the Water Act in which an offence is explicitly specified, any person contravening or failing to comply with any provisions of these by-laws or any written conditions laid down in these by-laws is guilty of an offence, and such a person is, for every day the offence continues after the date on which he or she has been given written notice

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to perform or discontinue an act, deemed guilty of a separate offence and is on conviction liable to any or all of the following penalties:

- (a) A fine not exceeding R5 000;
- (b) a fine not exceeding R5 000 or, in default of payment, imprisonment for a period not exceeding 12 months; or
- (c) imprisonment for a period not exceeding 12 months.

## **Indemnification from liability**

44. Neither an employee of the Municipality nor any person, body, organisation or corporation acting on behalf of the Municipality is liable for any damages arising from any omissions or act done or committed in good faith and in the course of his or her duties, as the case may be.

## **Repeal of by-laws**

45. The by-laws referred to in Schedule 1 to these by-laws are repealed.

## **Short title**

46. These by-laws are called the Sekhukhune District Municipality Sanitation By-laws.

## **Schedule 1**

Notice 8 of 1991 CONSOLIDATED BY-LAWS SUPPLEMENTARY TO THE NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT, 1977, AND THE REGULATIONS PROMULGATED THERE UNDER  
Notice 1443 of 1978 STANDARD DRAINAGE BY-LAWS  
Notice 3822 of 1992 BUILDING AND SEWAGE BY-LAWS; SECTION C,

**SEWERAGE****Appendix A****LIMITS OF CONCENTRATION OF CERTAIN SUBSTANCES**

(i)Parameter Allowed

Specification

Permanganate value (PV) not exceeding 1 400 ml/l

pH within range of 6,0 – 10,0

Electrical conductivity not greater than 300 mS/m at  
20 °C

Caustic alkalinity (expressed as  $\text{CaCO}_3$ ) 2 000 mg/l

Substance not in solution (including fat, oil, grease, waxes  
and like substances)

2 000 mg/l

Substances soluble in petroleum ether 500 mg/l

Sulphides, hydrosulphides and polysulphides (expressed  
as S)

50 mg/l

Substances from which hydrogen cyanide can be liberated  
in the drainage installation, sewer or sewage treatment  
works (expressed as HCN)

20 mg/l

Formaldehyde (expressed as HCHO) 50 mg/l

Non-organic solids in suspension 100 mg/l

Chemical oxygen demand (COD) 5 000 mg/l

All sugars and/or starch (expressed as glucose) 1 500 mg/l

Available chlorine (expressed as Cl) 100 mg/l

Sulphates (expressed as  $\text{SO}_4$ ) 1 800 mg/l

Fluorine - containing compounds (expressed as F) 5 mg/l

Anionic surface active agents 500 mg/l

(ii) METALS

Group 1:

Metal Expressed as

Manganese Mn

Chromium Cr

Copper Cu

Nickel Ni

Zinc Zn

Iron Fe

Silver Ag

Cobalt Co

Tungsten W

Titanium Ti

Cadmium Cd

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The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of effluent may not exceed 50 mg/ℓ, nor may the concentration of any individual metal in any sample exceed 20 mg/ℓ.

Group 2:

Metal Expressed as

Lead Pb

Selenium Se

Mercury Hg

The total collective concentration of all metals in Group 2 (expressed as indicated above) in any sample of effluent may not exceed 10 mg/ℓ, nor may the

concentration of any individual metal in any sample exceed 5 mg/ℓ.

(iii) OTHER ELEMENTS

Element Expressed as

Arsenic As

Boron B

The total collective concentration of all elements (expressed as indicated above) in any sample of effluent may not exceed 20 mg/ℓ.

(iv) RADIOACTIVE WASTE

Radioactive waste or isotopes: Such concentration as may be laid down by the South African Nuclear Energy Corporation or any State department.

Notwithstanding the requirements set out in this Appendix, the Municipality reserves the right to limit the total mass of any substance or impurity discharged per 24 hours into the sewers from any premises.

**NOTE:** The method of testing in order to ascertain the concentration of any substance referred to here shall be the test normally used by the Municipality for these purposes. Any person discharging any substance referred to in this Appendix shall obtain the details of the appropriate test from the Municipality.

**Appendix B****FORM OF APPLICATION FOR PERMISSION TO DISCHARGE INDUSTRIAL EFFLUENT INTO THE MUNICIPALITY'S SEWER  
(Please complete the application in block capitals.)**

I, \_\_\_\_\_  
(name),  
the undersigned, duly authorised to sign on behalf of

\_\_\_\_\_  
("the applicant"), hereby apply in terms of the Sanitation By-laws of the  
Municipality for permission to discharge industrial effluent into the Municipality's  
sewer on the basis of the facts stated herein.

**PART I**

1. NATURE OF THE BUSINESS OR UNDERTAKING:

\_\_\_\_\_  
\_\_\_\_\_

2. NAME OR STYLE UNDER WHICH THE BUSINESS OR UNDERTAKING IS  
CONDUCTED:

\_\_\_\_\_

3. POSTAL ADDRESS OF THE BUSINESS OR UNDERTAKING:

\_\_\_\_\_

4. PHYSICAL STREET ADDRESS OF THE BUSINESS OR UNDERTAKING:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ERF NO OR FARM PORTION: \_\_\_\_\_ TOWNSHIP OR FARM:

\_\_\_\_\_

5. IF THE BUSINESS OR UNDERTAKING IS CONDUCTED BY A COMPANY OR CLOSED CORPORATION, STATE THE NAME OF THE SECRETARY AND, IF IT IS A PARTNERSHIP, STATE THE NAMES OF THE PARTNERS:

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6. IS THIS A NEW OR ESTABLISHED BUSINESS OR UNDERTAKING:  
\_\_\_\_\_?

7. DESCRIPTION OF INDUSTRIAL OR TRADE PROCESS BY WHICH THE EFFLUENT WILL BE PRODUCED:

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8. INFORMATION RELATING TO EMPLOYEES:  
Office Factory

(1) Total number of daily employees (not included in (4))

(2) Number of shifts worked per day

(3) Number of days worked per week

(4) Number of persons resident on the premises

(5) Is a canteen provided? (Yes/No)



**PART II****FACTS RELATING TO THE CONSUMPTION OF WATER****1. TOTAL NUMBER OF LITRES OF WATER CONSUMED IN SIX MONTHS:**

Meter No Meter No Meter No Total  
Water purchased from the Municipality  
Water from a borehole or other source  
Water entering with raw materials  
Section of plant served by meter

TOTAL A

**2. WATER CONSUMPTION**

(1) Industrial kℓ/month

(i) Quantity of water in product .....

(ii) Quantity of water lost by evaporation .....

(iii) Quantity of water used as boiler make-up .....

(iv) Quantity of water for other uses (cooling, gardens, etc)

.....

TOTAL B \_\_\_\_\_

(2) Domestic use kℓ/month

(i) Total number of employees (Allow 1 kℓ per person per month) .....

(ii) Total number of employees permanently resident on the premises, e.g. in hostels (Allow 3 kℓ per person per month) .....

TOTAL C \_\_\_\_\_

### 3. EFFLUENT DISCHARGED INTO SEWER

- (1) Metered volume (if known) ..... kℓ/month
- (2) Estimated unmetered volume (see below\*) ..... kℓ/month
- (3) Estimated rate of discharge .....
- (4) Period of maximum discharge (e.g. 07:00 to 08:00) .....
- \* If no effluent meter is installed on the premises, the estimated volume of unmetered effluent discharged into the sewer is calculated as follows:
- $A - (B + C) = \dots\dots\dots \text{kℓ/month}$

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### PART III

#### INFORMATION REGARDING NATURE OF INDUSTRIAL EFFLUENT

Information required concerning the chemical and physical characteristics of the effluent to be discharged:

- (1) Maximum temperature of effluent (°C)
- (2) pH value (pH)
- (3) Nature and amount of settle able solids
- (4) Organic content (expressed as chemical oxygen demand)
- (5) Maximum total daily discharge (kℓ)
- (6) Maximum rate of discharge (kℓ/hr)
- (7) Periods of maximum discharge (e.g. 07:00 to 08:00)
- (8) If any of the substances specified in the table below or their salts are formed on the premises, place a cross in the space in which the substance is written and, if possible, state the average concentration of this substance that is likely to be present in any effluent.

#### ELEMENTS COMPOUNDS OTHER SUBSTANCES

Arsenic mg/ℓ Ammonium mg/ℓ Grease and/or oil mg/ℓ

Boron mg/ℓ Nitrate mg/ℓ Starch and/or sugars mg/ℓ

Cadmium mg/ℓ Sulphate mg/ℓ Synthetic detergents mg/ℓ

Chromium mg/ℓ Sulphide mg/ℓ Tar and/or tar oils mg/ℓ

Cobalt mg/ℓ Other (Specify)

mg/ℓ

Volatile solvents mg/ℓ

Copper mg/ℓ Other (Specify) mg/ℓ

Cyanide mg/ℓ

Iron mg/ℓ

Lead mg/ℓ

Manganese mg/ℓ

Mercury mg/ℓ

Nickel mg/ℓ

Selenium mg/ℓ

Titanium mg/ℓ

Tungsten mg/ℓ

Zinc mg/ℓ

Other (Specify) mg/ℓ

(9) Furnish any further information about the kind or character, the chemical composition, concentration or other properties peculiar to the industrial effluent on a separate sheet and attach it to this form.

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### **PART IV**

#### **CONDITIONS FOR THE ACCEPTANCE OF INDUSTRIAL EFFLUENT**

This application will only be granted on the applicant's undertaking that the applicant will abide by, observe and comply with the following terms and conditions, and any further special conditions that the Engineer may think fit to impose in any particular case:

1. The applicant must annex to these form descriptions of and a statement setting out the dimensions of the grease and oil traps, screens, dilution and neutralising tanks and any other provision made by the applicant for the treatment of the effluent before it is discharged into the sewer.
2. The applicant must submit to the Municipality, if requested to do so, plans showing the reticulation systems on the applicant's premises for water and industrial effluent.
3. The applicant must, in addition to complying with the provisions of the Municipality's Sanitation By-laws as they relate to the protection of the Municipality's employees, sewers and treatment plants from damage, comply with any direction concerned with such protection that is given to the applicant by the Engineer, whether verbally or in writing, for the purpose of ensuring the applicant's compliance with the by-laws.
4. The applicant must notify the Municipality of any material change in the nature or quantity of the industrial effluent specified in this application or in any of the facts furnished by the applicant in the application. The applicant must notify the Municipality as soon as possible after the applicant becomes aware of the material change, or at least 14 days before anything is done to cause the material change.
5. The applicant must, within 30 days from the date of signature of this application, obtain an accurately representative sample of not less than 5

litres of the industrial effluent which is to be discharged into the sewer, which sample must be free of domestic sewage. The applicant must submit one half of the sample to the Municipality for analysis and must also submit to the Engineer a report on the sample compiled by an analyst appointed by the applicant. In the case of a newly established business or undertaking, the 30-day period may be extended by the Municipality for a period not exceeding six months or for further extended periods that the Municipality may, at its discretion, permit from time to time in writing.

6. The applicant hereby declares and guarantees that the information furnished by the applicant in this form, or otherwise in connection with this

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application, is, to the best of the applicant's knowledge and belief, in all respects correct.

7. The applicant agrees that the said information, being in all respects correct, forms the basis on which this application will be granted by the Municipality.

Thus done and signed at ..... by the applicant on this  
..... day of ..... 20....

.....

Signature of the applicant

Capacity of the applicant: .....

### Appendix C INDUSTRIAL EFFLUENT DISCHARGE FORMULA

1. The additional industrial effluent charge for the disposal of high-strength sewage into waste-water treatment plants shall be determined in accordance with the following formula:

$$T_c = Q_c t [ a ( \text{COD} - \text{COD}_d ) + ( P_c - P_d ) + c ( N_d - N_d )$$

\_\_\_\_\_   
codD -+ Pd Nd

Where  $T_c$  = extraordinary treatment cost to consumer  
 $Q_c$  = waste-water volume discharged by consumer in kilolitres  
 $t$  = unit treatment cost of waste water in rand per kilolitre  
 $\text{COD}_c$  = total chemical oxygen demand (COD) of waste water discharged by consumer in milligrams per litre and is inclusive of both the biodegradable and non-biodegradable portion of the COD

CODd = total COD of domestic waste water in milligrams per litre

Pc = orthophosphate concentration of waste water discharged by consumer in milligrams of phosphorus per litre

Pd = orthophosphate concentration of domestic waste water in milligrams of phosphorus per litre

Nc = ammonia concentration of waste water discharged by consumer in milligrams of nitrogen per litre

Nd = ammonia concentration of domestic waste water in milligrams of nitrogen per litre

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a = portion of the costs directly related to COD

b = portion of the costs directly related to the removal of phosphates

c = portion of the costs directly related to the removal of nitrates  
Different terms Value

t R0,82/kℓ

CODd 600 mg/ℓ

Pd 10 mg/ℓ

Nd 25 mg/ℓ

a 0,6

b 0,25

c 0,15

### Penalty charges

Any person convicted of a breach of these bylaws shall be liable for a fine of R500, 00 in the case of a first conviction or, in the case of a second or subsequent conviction for the same offence, a fine not exceeding R1000,00 or in default of payment of any fine imposed in either case, imprisonment for a period not exceeding six (3) months.

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**WASTE MANAGEMENT BY- LAWS****CHAPTER 1: INTERPRETATION**

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Waste Management By-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

**1. Definitions**

For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal System Act, 2000 (Act 32 of 2000) shall bear the same meaning in these by-laws, and unless the context indicates otherwise:

**“affected person”** means a person who has issued, or who is being issued, with an enforcement notice;

**“approved”** in the context of bins, bin liner, containers, receptacles and wrappers means approved by the Municipality for the collection and storage of waste;

**“authorised official”** means a person authorised by the Municipality in terms of by-laws to execute work, conduct an inspection and monitor and enforce compliance with these by-laws.;

**“basic services”** means a service provided exclusively by the Municipality or its service provider to collect domestic waste, business

waste and dailies in accordance with the provisions of the Systems Act and Chapter 4 of these by-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

**“Bill of Rights”** means chapter 2 of the Constitution of the Republic of South Africa, 1996;

**“bin”** means an approved receptacle for the storage of less than 1,5 cubic meters of waste which may be supplied by the Municipality to premises in terms of these by-laws.;

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## WASTE MANAGEMENT BY-LAWS

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**“bin liner”** means an approved loose plastic or other suitable material liner for use in the interior of a bin;

**“building waste”** includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

**“bulky waste”** means business waste or domestic waste which by virtue of its mass, shape, size or quantity is, in the opinion of the Municipality, inconvenient to remove in the routine door-to-door basic service provided by the Municipality;

**“business waste”** means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste, recyclable waste and special industrial waste, generated on premises used for non-residential purposes;

**“commercial services”** means any service, excluding basic services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

**“container”** means an approved receptacle having a capacity greater than 1, 5 cubic meters for the temporary storage of waste in terms of these by-laws.

**“damage to the environment”** means any pollution, degradation or harm to the environment whether visible or not;

**“dailies”** means putrescible waste generated by hotels, restaurant, food shops, hospital, and canteens that must be collected on a frequent (normally daily) basis, to prevent the waste from decomposing and being either a nuisance or a risk to the environment or public health;

**“Domestic waste”** means waste generated on premises that are used solely for a residential purpose and for the purpose of public worship, but does not include business waste, building waste, , garden waste or bulky waste;

**“Dump”** means placing waste anywhere other than an approved receptacle, or place designated as a waste handling facility or as a waste disposal facility, by the municipality;

**“Enforcement notice”** means a notice issued by an authorized official under section 48 of these by-laws;

**“Environment”** means the surroundings within which humans exist made up of”-

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## **WASTE MANAGEMENT BY-LAWS**

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(a) The land, water and atmosphere of the earth,

(b) Micro-organisms, plant and animal life,

(c) Any part or combination of (a) and (b) and the interrelationships among and between them, and

(d) The physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence public health and well-being.

**“Environmental emergency”** means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed;

**“Firm”** includes any juristic person or any association of persons established or operating in the Republic of South Africa;

**“Garden waste”** means waste generated as a result of normal domestic gardening activities, including grass cutting, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40mm at any point of its length, bulky waste, building waste or any waste generated as a result of garden service activities;

**“Garden service”** means the provision of gardening services by a



license including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

**“Garden waste handling facility”** means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

**“Hazardous waste”** means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90oC, an explosive, radioactive material, a chemical or any other waste that has the potential, even in low concentrations, of having an adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

**“Health care risk waste”** means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, dental and medical practitioners and veterinarians;

**“Industrial waste”** means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, dailies

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activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;

**“Land reclamation”** means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

**“Level of service”** means the frequency of the basic service and the type of service point;

**“Licensee”** means any person who has obtained a license in terms of Chapter 8 of these by-laws;

**“Litter”** means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

**“Local community”** in relation to the Municipality means that body of persons comprising”-

- (a) the residents of the Municipality,
- (b) the ratepayers of the Municipality,

(c) any civic organization and non-governmental, private sector or labour organization or bodies which are involved in local affairs within the Municipality, and

(d) persons who, despite residing outside the Municipality, because of their presence in the Municipality, make use of the services provided by the Municipality;

**“Local waste plan”** means any integrated waste management planning system which the Municipality must develop under national or provincial legislation or in terms of the Municipality’s integrated development plan as more fully described in Chapter 2;

**“Municipality”** includes, subject to the provisions of any other law, the municipal manager, but only if his inclusion is impliedly required or permitted by these by-laws and only in respect of the performance of any function, or the exercise of any duty, obligation or right in terms of these by-laws or any other law;

**“Municipal Manager”** means the municipal manager as defined in section 82(1) (a) of the Structures Act;

**“National Road Traffic Act Regulation”** means the regulations made in terms of section 75 of the National Road Traffic Act, 1996 (Act 93 of 1996) and published as Notice 225 in the Regulation Gazette No 6748 of the Government Gazette No 20963 dated 17 March 2000;

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**“nuisance”** means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

**“occupier”** includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises, or parts of premises, let to a lodger or any other person, includes the person receiving the rent payable by a lodger or any other person whether for himself or as an agent for any other person;

**“owner”** includes any person that has the title to any premises or land, or any person receiving the rent or profits for allowing the occupation or use of land, premises or part of any premises, or who would receive rent or profit if land or premises were let or used, whether he does so on his own account or for another;

**“panel”** means the License Adjudication Panel established in terms of section 32 of these by-laws;

**“person”** means a natural or juristic person and includes a licensee;

**“pollution”** means any change in the environment caused by:-

- (a) substances;
- (b) radioactive or other waves; or
- (c) noise, odours, dust or heat;

emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or wellbeing or on the composition, resilience and productivity of natural or managed ecosystem, or on materials useful to people, or will have that effect in the future;

**“premises”** means an erf or any other portion of land, including any building, or part of a building on it, or any other structure utilized for business, industrial or residential purposes;

**“public place”** includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden, park, enclosed space vested in a municipality, and any road, place or pathway or thoroughfare however created which is used

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By the public or to which the public has a right of use of or a right of access;

**“Public road”** means any road, street, pathway, or thoroughfare or any other place (whether a thoroughfare or not) of a similar nature which is commonly used by the public or to which the public or a segment of the public has a right of access and includes:-

- (a) Any section of such road, street or thoroughfare;
- (b) The verge of any such road, street or thoroughfare;
- (c) Any bridge or drift traversed by any such road, street or thoroughfare; and
- (d) Any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

**“Radioactive material”** means any substance consisting of, or

containing, any radioactive nuclide, whether natural or artificial;

**“Radioactive waste”** means any radioactive material which is or is intended to be disposed of as waste;

**“Recyclable waste”** means waste which has been separated from the waste stream, and set aside for purposes of re-use or reclamation;

**“Recycling”** means the use, re-use or reclamation of a material so that it re-enters the industrial process rather than becoming waste;

**“Resident”** means in relation to a Municipality a person who is ordinarily resident within the jurisdiction of the Municipality;

**“Road reserve”** means that portion of a road, street or thoroughfare which is improved, constructed or intended for vehicular traffic and which is between the edges of the roadway, or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

**“SANS Codes”** means the South African National Standards Codes or the South African Bureau of Standard Codes as defined in Regulation No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of Standards Act, 1993 (Act 29 of 1993);

**“Service delivery agreement”** means an agreement between the Municipality and a service provider in terms of which the service provider is required to provide basic services;

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**“Service provider”** means any person who has entered into a service delivery agreement with the Municipality in terms of section 81(2) of the System Act;

**“Special industrial waste”** means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste;

**“Storage”** means the storage of waste for a period of less than ninety days;

**“Structures act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**“Sustainable development”** means the integration of social, economic

and environmental factors into planning, implementation and decision-making so as to procure that development so as to procure that development serves present and future generations;

**“System act”** means the Local Government: Municipal System Act, 2000 (Act 32 of 2000);

**“Target”** means any desired air, water quality or waste standards contained in any legislation;

**“Tariff”** means the charge to users for the provision of basic services, determined and promulgated by the Municipality, or adjusted by a service provider, in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;

**“Waste”** shall not exclude a substance merely because it may be reprocessed, re-used or recycled and shall include:-

- (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in a volume, constituency or manner so as to cause an alteration in the environment; or
- (b) Any discarded, rejected, unwanted, surplus or abandoned substance; or
- (c) Any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the substance; or
- (d) Any substance prescribed as waste in these by-laws or any other legislation;

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**“Waste disposal facility”** means any facility or site which receives waste for treatment or disposal, and which is operated in terms of a permit obtained from the competent national authority, and includes garden waste handling facilities and incinerators;

**“Waste generator”** means any person or firm that generates or produces waste;

**“Waste handling facility”** means any facility that accepts accumulates handles, recycles, reprocesses, sorts, stores or treats waste prior to its transfer for treatment by way of incineration or for final disposal;

**“Waste stream”** means a type of waste, including waste, business

waste , dailies, domestic waste, garden waste, hazardous waste, health care risk waste, industrial waste, recyclable waste, and special industrial waste;

**“Workplace”** means any place within the Municipality on or in which or in connection with which, a person undertakes basic services or commercial services; and

**“Wrapper”** means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

## **CHAPTER 2: LOCAL WASTE PLAN**

### **2. Preparation of Local Waste Plan**

Subject to any other legislation, the municipality may prepare a local waste plan.

### **3. Objectives of a Local Waste Plan**

(1) The objectives of a local waste plan include:-

- (a) establishing a means of ensuring that waste is collected, re-used, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without:-
  - (i) risk to water, air, soil, plants or animals;
  - (ii) causing nuisance through noise or odours; or
  - (iii) adversely affecting rural or urban areas or areas of special interest;

(b) Establishing an integrated network of waste handling and waste disposal facilities to ensure that:-

- (i) Comprehensive and adequate basic and commercial services are established within the Municipality;
- (ii) the disposal of waste occurs at accessible waste disposal facilities; and

- (iii) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environmental and harm to human health;
- (c) encourage the minimization or reduction of waste;
- (d) promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and
- (e) any other object which would enhance sustainable development.

#### **4. Scope of Local Waste Plan**

(1) A local waste plan includes but is not to be limited to the following matters:-

- (a) Population and development profiles within the municipality;
- (b) An assessment of all significant source and generators of waste within the municipality;
- (c) An assessment of the quantities and classes of waste currently generated and projected to be generated within the municipality;
- (d) An assessment of the existing markets for each waste category;
- (e) An assessment of the existing options for waste reduction, management and disposal within the municipality;
- (f) An assessment of the number of persons within the municipality who are not receiving basic services and proposed strategies and targets for providing these services to such persons;

- (g) Proposed strategies and targets for managing and reducing waste in the municipality and for the efficient disposal of waste that cannot be re-used or recycled;
- (h) Strategies for waste education and initiatives for separating waste at its source;

- (i) Strategies for raising awareness of waste management issues;
- (j) Strategies for establishing the information system described in Chapter 3 of these by-laws;
- (k) An implementation programme that identifies the required time-frames, resources and responsibilities for achieving these strategies and targets;
- (l) A mechanism for monitoring performance in light of these targets and strategies;
- (m) Current and anticipated waste collection, transportation, transfer and disposal costs;
- (n) A consideration of how the local waste plan relates to other relevant plans of the municipality; and
- (o) Any other matters required by any other legislation, regulation or guidelines.

## **5. Requirements in Preparing a Waste Plan**

1. If the municipality prepares a local waste plan, it must, subject to any other legislation:-
  - (a) Take into consideration any integrated development plan or land development objectives of the municipality, and the requirements of any national or provincial legislation or policy;
2. Take reasonable steps to bring its draft local waste plan to the notice of the local community by:-
  - (a) Inviting comment on it from members of the local community;
  - (b) Allowing not less than two months for submitting such comments;
  - (c) And considering comment received before finalizing the local

waste plan;

3. Send copies of the draft local waste plan to the competent national authority and neighbouring municipalities for their information; and



4. Send a copy of the draft local waste plan to the Province in which the municipality is situated for comment and finalize the local waste plan after considering such comment.

### **CHAPTER 3: WASTE MANAGEMENT INFORMATION SYSTEM**

#### **6. Decision to Establishment a Waste Management Information System**

- (1) The municipality may establish and maintain a waste management information system in terms of this chapter to record how waste is managed within the municipality.
- (2) A decision to establish a waste management information system in terms of subsection (1) must be published by a notice in the Provincial Gazette and will come into operation on a date announced in the notice which must not be less than 3 months from the date of its publication.

#### **7. Purpose of the Information System**

- (1) The purpose of an information system is for the municipality to:-
  - (a) record data relating to the implementation of the local waste plan, if any, and the management of waste in the municipality;
  - (b) record information held by the municipality in relation to any of the matters referred to in subsections 9(2) (a) to 9(2) (h);
  - (c) furnish information upon request or as required by law to the provincial or national government;
  - (d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees;
  - (e) provide information to waste generators, service providers, licensees and the local community in order to:-
    - (i) facilitate monitoring of the performance of the municipality, service providers and licensees, and, where applicable, waste generators;
    - (ii) stimulate research; and

- (iii) assist the municipality to achieve the main objectives of these by-laws.

## **8. Contents of the Information System**

- (1) An information system established by the municipality may include any information relating to or connected to the management of waste within the municipality.
- (2) The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law.
- (3) In giving effect to the right in subsection (2), the municipality must:-
  - (a) at the effect of the local community, provide information contained in the information system;
  - (b) take steps to ensure that the information provided is in a format appropriate for lay readers; and
  - (c) may impose a fee for providing such information in order to cover the cost of providing the information requested.

## **9. Provision of Information**

- (1) The municipality may, subject to the provisions of any other law including common law, require any waste generator, licensee, service provider or person involved in or associated with the provision of basic services or commercial services within the municipality to furnish information to the municipality that may reasonably be required for the information system.
- (2) The information referred to in subsection (1) may concern:-
  - (a) Significant sources of waste generation and the identification of the generators of waste;
  - (b) Quantities and classes of waste generated;
  - (c) Waste handling, waste treatment and waste disposal facilities;
  - (d) Population and development profiles;
  - (e) Reports on progress in achieving any waste management targets;

- (f) The management of radioactive waste;
  - (g) Markets for waste by class of waste or category; and
  - (h) Any other information required by legislation, regulation or guidelines.
- (3) The municipality may, at its sole discretion, determine when and how often information must be furnished.

## **CHAPTER 4: BASIC SERVICES**

### **Part 1: Providing Access to Basic Services**

#### **10. The Provision of Basic Services**

- (1) The municipality must take reasonable measures within its available resources progressively to ensure regular access by the local municipality to basic services.
- (a) in planning for and setting service standards and levels of service for the provision of basic services and providing basic services, the municipality may differentiate between geographical areas and categories of users within the local community but, in doing so, the municipality must comply with national legislation and in particular the requirements of section 73 of the System Act.

#### **11. Requirement for Basic Services**

- (1) The following matters in respect of basic services shall be determined by the municipality and the power to make a determination in this section may not be assigned to a service provider in terms of section 27(2):-
- (a) the quantities of waste that will be collected;
  - (b) which residential or commercial premises require basic services more frequently than the regular collection service for reasons of health, safety and environmental protection; and
  - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff.
- (2) The following additional matters in respect of basic services may be determined by the municipality:-

- (a) Collection schedules;
  - (b) Locations for placing approved receptacles for collection;
  - (c) Which types of waste generated by the occupier of any premises are separable for the purposes of recycling and determine the conditions for their separation, storage or collection; and
  - (d) Which waste items are unsuitable for collection because they do not constitute domestic waste, and where such waste is determined to be unsuitable for collection, a process for the collection of these items must be recommended to the owner of the waste.
- (3) The municipality must notify in writing all generators of domestic waste, business waste and dailies of any decision taken in terms of subsection (1) or (2), and may at any time review these decisions.
- (4) The municipality may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection.
- (5) Where a receptacle referred to in subsection (4) is provided by the municipality, it remains the property of the municipality.
- (6) The municipality may require a generator of dailies and business waste to compact that portion of the waste that is compactable when:-
- (a) The quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240 liter bins; and
  - (b) In the opinion of the municipality, the major portion of such waste is compactable.
- (7) The occupier of premises may elect to compact any volume of such waste and place it into a receptacle or wrapper that is approved by the municipality. Provided that:-
- (a) The capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms; and
  - (b) After the waste has been compacted and put into the

wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.

**Part II: Using Basic Services****12. Obligations of Generators of Domestic Waste, Business Waste and Dailies**

- (1) Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the municipality as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.
- (2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that:-
  - (a) no hot ash, unwrapped glass or other domestic waste, business and dailies which may cause damage to approved receptacles or which may cause injury to employees of the municipality while carrying out their duties in terms of these by-laws, is placed in approved receptacles;
  - (b) no material, including any liquid, which because of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the municipality to handle or carry, is placed in a receptacle;
  - (c) every approved receptacle on the premises is kept closed except when waste is being deposited in it or discharged from it and every approved receptacle are kept in a clean and hygienic condition;
  - (d) the approved receptacle delivered by the municipality is not used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container;
  - (e) the approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the municipality by notice to the owner or occupier of the premises, except where, on written application to the municipality, the municipality has

indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;

(f) the approved receptacle, placed in accordance with subsection (3) (e), must be undamaged and properly closed so as to prevent the dispersal of its contents; and

(g) dailies are not placed in a receptacle or compactor where they are able to contaminate other waste streams.

(4) The owner or occupier of premises must provide adequate space considered necessary by the municipality, on the premises for the storage of approved receptacles.

(5) The space provided in terms of subsection (4) must:-

(a) be in such a position on the premises as will allow the storage of approved receptacles without them being visible from a street or public place;

(b) where dailies are generated on the premises:-

(i) be in such a position as will allow their collection and removal by the municipality's employees without hindrance; and

(ii) be placed not more than 20m from the entrance to the premises used for the collection of waste by the municipality.

(c) be so located as to permit convenient access and egress for the municipality's waste collection vehicles;

(d) comply with any further reasonable requirements imposed by the municipality by written notice to the owner or occupier of the premises; and

(e) be considered in accordance with the requirements of any applicable building regulations.

- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there, except where the municipality is unable to collect and remove waste from the space provided in terms of subsection (4).

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- (7) The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the municipality may require.

### **13. Liability to Pay for Basic Services**

The owner of premises is liable to the municipality for payment of rates or tariffs or both for the provision of basic services, and is not entitled to exemption from the liability to make payment because no use or only partial or limited use is made of basic services.

## **CHAPTER 5: COMMERCIAL SERVICES**

### **Part 1: Provision of Commercial Services by the Licensees and Flow Control**

#### **14. Provision of Commercial Services by Licensees**

- (1) Except in the case of garden waste, and subject to subsection 29(3), only a licensee may provide commercial services.
- (2) Any person requiring commercial services must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these by-laws.

#### **15. Provision for Municipality Co-Ordination of Waste Disposal**

The municipality may direct, by a notice published in the Provincial Gazette, that a category of waste be disposed of in a particular depot or disposal site, and no person may dispose of waste other than as specified in a notice that has been gazetted under this section or as specified by the municipality under other legislation prior to the coming

into operation of these by-laws.

## **Part II: Business, Industrial and Recyclable Waste**

### **16. Storage of Business, Industrial and Recyclable Waste**

The owner or occupier of premises on which business, industrial or

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recyclable waste is generated must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated:-

- (a) the waste is stored within a bulk container or other approved receptacle; and
- (b) no nuisance or health risk of any kind whatsoever is caused by the waste in the course of generation, storage, or collection.

### **17. Collection and Disposal of Industrial, Business and Recyclable Waste**

(1) The owner or occupier of premises where business, industrial and recyclable waste is generated must ensure that:-

- (a) the container in which the waste is stored is not kept in a public place except for the purpose of collection;
  - (b) the waste is collected by a licensee within a reasonable time after its generation; and
  - (c) that the service rendered by a licensee is in respect only of that portion of the business, industrial or recyclable waste authorized in its license.
- (2) A licensee must dispose of business, industrial or recyclable waste at an appropriately permitted waste handling facility or waste disposal facility, and in disposing of waste, a licensee must comply with any notice given in terms of section 15 and with the provisions of section 26.

## **Part III: Garden Waste and Bulky Waste**

### **18. Storage, Collection and Disposal of Garden Waste and Bulky**



## **Waste**

- (1) The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, but may do so only if the composting does not cause a nuisance or public health risk
- (2) The occupier of the premises on which garden waste is generated and not composted, or on which bulky waste is generated, must ensure that such waste is collected and disposed within a reasonable time after its generation.
- (3) Any person or licensee may remove garden waste and bulky

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## **WASTE MANAGEMENT BY-LAWS**

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waste, but may do so only if the waste is deposited at a garden waste handling facility in accordance with the provisions of section 26.

- (4) At the written request of the occupier of premises, the municipality may, in its sole discretion, deliver an approved receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste, and the provisions contained in section 12, read with the necessary changes must apply to an approved receptacle delivered in terms of this section.
- (5) Where, in the course of providing basic services, the municipality or the service provider providing the service is of the opinion that it would cause inconvenience to members of the public not to remove garden and bulky waste at the same time, the municipality may remove such waste, in which event the tariff for domestic waste applies.

### **Part IV: Building Waste**

#### **19. Generation of Building Waste**

- (1) The owner or occupier of premises on which building waste is to be generated must ensure that:-
  - (a) until disposal, all building waste, together with the containers used for its storage, collection or disposal, is kept on the premises on which the waste was generated;
  - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a

result of accumulated building waste.;

- (c) any building waste which is blown off the premises is promptly retrieved; and
- (d) pursuant to any instructions from the municipality, any structure necessary to contain the building waste is constructed.

## 20. Storage of Building Waste

- (1) The municipality may establish conditions, subject to subsection (2), to place a receptacle for the storage and collection of building waste in the road reserve.
- (2) Every receptacle used for the removal of building waste, must:-

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- (a) have clearly marked on it the name, address and telephone number of the person in control of such receptacle;
- (b) be fitted with reflecting chevrons or reflectors on its front and back; and
- (c) be covered at all times other than when actually receiving or being emptied of building waste so that no displacement of its contents can occur.

## 21. Collection and Disposal of Building Waste

- (1) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the municipality in terms of a notice under section 15, unless the municipality has given written consent for the building waste to be used for the purpose of land reclamation for recycling.

## Part V: Special Industrial, Hazardous or Health Care Risk Waste

### 22. Generation of Special Industrial, Hazardous or Health Care Risk Waste

- (1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated,

without notifying the municipality in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste. Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these by-laws, the generator must give the municipality such notice within 6 months of the commencement of these by-laws.

(2) If so required by the municipality, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.

(3) The person referred to in subsection (1) must notify the

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municipality in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

### **23. Storage of Special Industrial, Hazardous or Health Care Risk Waste**

(1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored, until it is collected, on the premises.

(2) Special industrial, hazardous or health care waste stored on premises must be stored in a manner that does not become a nuisance or cause harm to public health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional by-laws.

(3) Special industrial, hazardous or health care risk waste be stored in an approved receptacle for a period not exceeding three months or any other period stipulated by the Department of Water and Environmental Affairs, the Provincial Government, or the municipality.

- (4) The municipality may enact additional by-laws providing guidelines for the management of health care risk waste.

#### 24. Collection and Disposal of Special Industrial, Hazardous or Health Care Risk Waste

- (1) Only a license may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the municipality, stipulated as license conditions or in additional by-laws, as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of the source, transportation and disposal of such waste, and the requirement of any other legislation.
- (2) A licensee, who is licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the municipality prior to the date of collection of the date of collection, the quantity and the composition of the waste collected and the facility at which the waste has been disposed.
- (3) A licensee must dispose of special industrial, hazardous or

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health care risk waste at a waste disposal facility designated by notice by the municipality as a waste disposal facility for that purpose in terms of section 15 and in accordance with the provisions of section 26.

## CHAPTER 6: TRANSPORTATION AND DISPOSAL OF WASTE

### 25. Transportation of Waste

- (1) No person may:-
  - (a) operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
  - (b) fail to maintain the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
  - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net;
  - (d) cause or permit any waste being transported in or through

the municipality to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility; and

- (e) knowingly dispose waste at a waste disposal facility that is not permitted to accept that waste.
- (2) Subject to subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act 93 of 1996).

## **26. Disposal of Waste**

- (1) Waste generated within the municipality must be disposed of at a waste disposal facility that has been appropriately permitted by the competent national authority.
- (2) In disposing of waste, licenses must comply with any notices issued in terms of section 15 and in accordance with the provisions of any other law regulating the disposal of waste.
- (3) No person may dispose of waste by burning it, either in a public or private place.

- (4) No person may incinerate waste either in a public or private place except in an incinerator permitted by the relevant national and provincial authorities to do so, or at a place designated by the municipality for such purpose.
- (5) Notwithstanding the provisions of subsection (1), any person may dispose of those forms of recyclable waste specified by the municipality in a notice in terms of section 15 at designated garden waste handling facilities, but may do so only if the waste is brought to the facility in vehicles able to carry a maximum load of one tonne or less.
- (6) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by the competent national authority, be subject to any condition the municipality may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed of, the manner of disposing of waste and any other matters which the municipality considers necessary to ensure the environmentally sound management of waste.

(7) Every person who enters a waste disposal facility must:-

- (a) enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
- (b) on request, provide the municipality or the operator of the waste disposal facility with any information regarding the composition of the waste; and
- (c) follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.

(8) No person may:-

- (a) bring any liquor or intoxicating or narcotic substance on to a waste disposal facility or enter such facility in an intoxicated state;
- (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these by-laws, unless authorized to do so by the operator of the waste disposal facility or the municipality and then only at such times and on such conditions as the municipality or operator may from time to time determine;

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(c) dispose of waste at a waste disposal facility which is not permitted for waste of that kind; and

(d) light any fire upon or near any disposal area without authorization.

(9) Any person who contravenes subsection 26(8) (c) will be liable for all reasonable costs incurred by the municipality in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.

(10) The operator of the waste disposal facility may at any time require a vehicle, or a container on a vehicle, that has entered the waste disposal facility for the purposes of disposing waste, to be weighed at a weighbridge.

(11) The municipality, the operator of the waste disposal facility, an

authorized official or any other persons duly authorized by the municipality may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.

- (12) Any person contravening any of the provisions of this section may be refused entry or be removed from a waste disposal facility;
- (13) No person may store waste for more than ninety consecutive days without a permit from the competent national authority in terms of section 20(1) of the Environment Conservation Act, 1989 (Act 73 of 1989).

## **CHAPTER 7: SERVICE PROVIDERS**

### **27. Agreement, Delegation and Customer Charter**

- (1) The municipality may, subject to its responsibilities under section 81 of the Systems Act discharge any of its obligations under section 10(1) of these by-laws by entering into a service delivery agreement with a service provider or service providers.
- (2) Subject to the provision of the System Act or any other law, the municipality may assign to a service provider any right or power enjoyed by the municipality under these by-laws whenever the assignment is required to enable the service provider to discharge an obligation under its service delivery agreement.
- (3) If a municipality has entered into a service delivery agreement

with a service provider, it must publish a notice in the Provincial Gazette for the province in which it is situated listing which rights and powers of the municipality under which provisions of these by-laws have been assigned to the service provider.

- (4) Where the term “municipality” appears in a provision of these bylaws listed in the notice in subsection (3) it shall be read as “service provider” in that provision.

### **28. Customer Charter**

Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the municipality

and must:-

- (a) accord with the provisions of these by-laws;
- (b) be accessible to the public;
- (c) establish the conditions of supplying the service; and
- (d) provide for the circumstances in which electricity services may be limited.

## **CHAPTER 8: LICENSES**

### **29. Establishment of a Licensing System**

- (1) A municipality may establish a licensing system in terms of this chapter.
- (2) A decision to establish a licensing system in terms of subsection (1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.
- (3) If a municipality has not established a licensing system, firms providing waste management services may be treated as licensees by generators of waste for the purpose of chapter 4 of these by-laws.

### **30. License Requirements**

- (1) If a licensing system is established in terms of section 29(1), no person may collect or transport any of the waste streams listed in subsection (2):-
  - (a) without having first obtained and being in possession of a

valid license; and

- (b) except in properly constructed, watertight vehicles or in containers that prevent spillage of waste and are suitable for the waste stream which is being collected or transported, as specified in the National Road Traffic Act, 1996 (Act 93 of 1996).
- (2) There are seven categories of waste covered by licenses issued under chapter 7 of these by-laws:-



- (a) business (bulk containerized) waste;
  - (b) industrial waste;
  - (c) special industrial waste;
  - (d) hazardous waste;
  - (e) recyclable waste;
  - (f) health care risk waste; and
  - (g) building waste.
- (3) Licenses issued under these by-laws:-
- (a) may not be ceded or assigned without the prior written consent of the municipality;
  - (b) are valid only for the category of waste specified; and
  - (c) expire within one year of the date of issue unless extended by the municipality in terms of section 32(8) or section 34(2).

### **31. License Application**

- (1) An application for a license must be in writing on a form prescribed by the municipality.
- (2) The form prescribed by the municipality must specify the information to be included in the application, as well as any necessary documentation, and the time available for the making the application, which period must not, subject to section 32(8) or section 34(2), be less than two months in duration.

- (3) The information provided in the application form must include the following:-
- (a) the name and residential and postal address of the person providing commercial service and, if the person providing commercial services is a company or close corporation, its registration number, the names of directors or members and the address of its registered

head office; and

- (b) the nature of the commercial services to be provided or intended to be provided by the person.
- (4) The municipality must determine the fees to be imposed on each vehicle used by a person to collect or transport waste, and the application must be accompanied by the relevant fees.

### **32. The License Adjudication Panel**

- (1) The municipality must appoint a panel to adjudicate license applications on its behalf known as the License Adjudication Panel.
- (2) A person appointed to the panel must not be:-
  - (a) an employee or director of a service provider or licensee;or
  - (b) A councillor of the municipality; and must be:
  - (c) suitably qualified to adjudicate applications in terms of this section;
- (3) Where the panel consists of two or more persons:-
  - (a) The municipality must appoint one person from amongst the panel members to act as a chairperson;
  - (b) All decisions of the panel must be taken by a majority vote of panel members present and voting at the meeting at which the matter is considered;
  - (c) Where there is an equality of votes, the chairperson must cast a second or casting vote;
- (4) The panel must consider each application, having regard to the following:-
  - (a) The applicant's compliance with the National Road Traffic

Act, 1996 (Act 93 of 1996) and with these by-laws;

- (b) the environmental, health and safety record of the applicant;

- (c) the nature of the commercial service to be provided; and
  - (d) any other matter which the panel considers relevant.
- (5) After considering the application in terms of subsection (4), the panel must either:-
- (a) approve the application by issuing a license subject to any term or condition it considers appropriate; or
  - (b) refuse the application, which refusal must be accompanied by written reasons.
- (6) The panel may refuse an application only because the applicant:-
- (a) failed to submit a complete and satisfactory application to the municipality; or
  - (b) failed to comply with the standards established in these by-laws.
- (7) If the panel refuses an application for a license, the applicant may appeal to the committee that is responsible for solid waste disposal services established in terms of section 80 of the Structures Act, or if no such committee has been established, to the municipality manager of the municipality, on the basis set out in section 50(1) to 50(5) of these by-laws with all the changes that may be necessary to apply those provisions.
- (8) If the panel fails to consider and grant or refuse the license application within two months of its receipt of the application, the validity of an existing license is automatically extended until the panel makes its decision, and the municipality must:-
- (a) inform the applicant in writing that the period for consideration is extended; and
  - (b) inform the applicant of the date by which the decision will be made.

### **33. License Terms and Conditions**

- (1) When issuing a license the municipality may, subject to the

provisions of subsection (2) impose any reasonably necessary

license conditions in furtherance of national, provincial or municipal waste management policy.

(2) Licenses issued by the municipality must:-

- (a) specify the license period and the procedure for the renewal of a license;
- (b) specify the category or categories of waste that the license holder may collect and transport;
- (c) contain a requirement that the license holder must comply, and ensure compliance by its employees, agents and sub-contractors, with these by-laws and applicable provincial and national legislation; and
- (d) require the license holder to keep monthly written records on a form prescribed by the municipality in respect of the quantities of each category of waste it collects and transports during the license period, which quantities must be confirmed and verified by the municipality in any application for renewal of a license or application for a new license by the same contractor.

#### **34. Renewal of Licenses**

- (1) If license holders intend to renew their license, they must do so within two months before the expiry of an existing license, and the panel must accept and grant or refuse the license application within two months of the receipt of that application in accordance with section 32(5).
- (2) If the panel fails to consider or to grant or refuse the license renewal application within two months, the validity of an existing license is automatically extended until the panel makes its decision, and municipality must:-
  - (a) inform the applicant in writing that the period for consideration is extended; and
  - (b) inform the applicant of the date by which the decision will be made.
- (3) When considering whether to grant another license, the panel must confirm and verify the previous records kept by the license holder in terms of section 33(2) (d) of these by-laws.

### **35. Display of Waste License**

- (1) Upon issuing a license to a contractor to collect or transport a specific category of waste, the municipality must issue to the contractor a numbered sticker for each vehicle to be used by him which shall:-
  - (a) confirm that the license holder is authorized to collect or transport the category of waste specified on the sticker;  
and
  - (b) be colour coded for easy identification of the waste stream to which the license applies.
- (2) The contractor must affix the sticker referred to in subsection (1) to each vehicle to be utilized in providing the service and display it all times.
- (3) A waste disposal facility is authorized and directed to admit waste to its facility for processing or disposal only from contractors who are licensed and whose vehicles display the necessary sticker as required in subsection (1) above.

### **36. Prohibited Conduct**

#### **License holders may not:-**

- (a) operate in contravention of the terms and conditions of their license;
- (b) fail or refuse to give information, or give false or misleading information when required to do so in terms of these by-laws; or
- (c) fail to take all reasonable steps to prevent an act or an omission by an employee acting in the course and scope of his duties which is unlawful in terms of these by-laws.

### **37. Suspension and Revocation of Licenses**

- (1) A license issued under these by-laws may be suspended or revoked by the municipal manager of the municipality on the grounds that the license holder:-
  - (a) has failed to comply with the obligations set out in these by-laws; or
  - (b) has failed to comply with any national or provincial

legislation which regulates the collection, transportation or disposal of any waste; or

(c) has failed to comply with the terms of a license and any condition set out in section 33; or

(d) on any other ground that the municipal manager considers relevant, and which is fair and reasonable in the circumstances.

(2) A license may only be suspended or revoked by the municipal manager after:-

(a) he has given adequate notice to the license holder in terms of section 3(2) (b) (i) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) that he intends to make a decision regarding the suspension or revocation of the license; and

(b) after the license holder has been given a reasonable opportunity to make representations to the municipal manager as to why its license should not be suspended or revoked in terms of section 3(2)(b)(ii) of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

(3) The length of time given to the license holder to make representations and the nature of representations allowed must be fair and reasonable in the circumstances, taking into account the nature and severity of the infringement, the potential risk of harm to the environment, human life or property, or any other factor relevant in the circumstances.

(4) The municipal manager must make a decision within two weeks of receiving the representations, if any, of the license holder, or within two weeks after the closing date for making representations specified by the municipal manager in terms of subsection (3), and must inform the license holder of his decision within seven days of making it.

(5) If a license is suspended or revoked in terms of subsection (4), the holder of the suspended license may appeal to the committee that is responsible for solid waste disposal services established in terms of section 80 of the Structures Act, or if no such committee has been established to the executive committee or executive mayor of the municipality, on the basis set out in section 50 with all the necessary amendments of the wording to those provisions.

(6) At no time may the municipality disclose any confidential

commercial information submitted as part of the license application procedure to any other party, other than to the party who disclosed such information to the municipality.

### **38. Transitional Provisions and Exemptions**

- (1) Any person lawfully providing commercial services within the municipality when a notice is issued in terms of section 29(2) that the municipality intends to establish a licensing system, must, if that service requires a license, apply for a license but may continue to provide commercial services while the license application is being considered by the municipality, but may do so only if that person has submitted an application for a license within three months after the section 29 notice is issued.
- (2) The municipality may, having regard to the main object of these by-laws and its Local Waste Plan, exempt any form of commercial service from the provisions of Chapter 8 of these by-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

## **CHAPTER 9: LITTERING, DUMPING AND ABANDONED ARTICLES**

### **39. Duty to Provide Facilities for Litter**

- (1) The municipality, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The municipality, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are :-
  - (a) maintained in good condition;
  - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
  - (c) constructed in such a manner as to ensure that they are weather-proof and animal proof;
  - (d) of suitable size to contain all litter likely to be generated on the premises and by the users of the receptacles;

- (e) placed in locations convenient for the use by users or occupants of the premises in order to discourage littering or the unhealthy accumulation of waste; and

- (f) emptied and cleansed regularly or when full, and the emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or health hazard or provide reasonable grounds for complaint.

#### **40. Prohibition of Littering**

- (1) No person may:-

- (a) cause litter;
- (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
- (c) disturb anything, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
- (d) allow any person under his control to do any of the act contemplated in paragraphs (a), (b) or (c) above.

- (2) Notwithstanding the provisions of subsection (1), the municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed, and for the purposes of this section, a reasonable time means that period of time before the litter becomes a nuisance, a health hazard or a cause for complaint.

#### **41. Prohibition of Dumping and Abandoning Articles**

- (1) No person may, without authorization in writing by the municipal manager, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he is the owner or occupier except when he does so in accordance with the provisions of these by-laws.



(2) Subject to any provisions to the contrary contained in these bylaws, no person may leave any article, or allow any article under his control, to be left at a place with the intention of abandoning it.

(3) No person may dump waste.

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(4) Any articles, other than a motor vehicle deemed to have been abandoned in terms of regulations 320 of the National Road Traffic Act regulations, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the municipality as it may consider fit, but if the article is, in the opinion of the municipality, of significant financial value, the municipality must place a notice in a daily newspaper indicating its intention to sell the article for the best price reasonably obtainable, as well as consult with the police prior to selling the article.

**CHAPTER 10: AMINISTRATIVE ENFORCEMENT PROVISIONS****Part I: Appointment of Authorized Officials****42. Appointment of Authorized Officials**

- (1) The Municipality must appoint authorized official vested with the power to exercise the powers of an authorized official under these by-laws and to discharge the municipality's right of access to premises in terms of section 101 of the System Act.
- (2) An authorized official is not a peace officials within the meaning of the Criminal Procedure Act, 1977 (Act 51 of 1977) and has no powers to arrest in respect of any offence created in these by-laws.
- (3) In appointing an authorized official, the municipality must have regard to:-
  - (a) a person's technical understanding and experience of matters related to waste management; and
  - (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative;

- (4) An authorized official may be an employee of the municipality or any service provider of the municipality, but neither the service provider nor any of its employees may be involved in enforcing compliance with these by-laws by licensees.
- (5) Upon appointment, authorized officials must be issued with a means of identification by the municipality which must state the name and function of the authorized official, and must include a photograph of the officer.
- (6) an authorized official, acting within the powers vested in him by

these by-laws, is required to:-

- (a) present identification on demand by any member of the public;
- (b) liaise with or co-ordinate action with any environmental management inspector designated under the National Environmental Management Act, 1998 (Act 107 of 1998) enforcing the National Environmental Management Act 1998 (Act 107 of 1998) or any specific environmental management Act within the municipality.

## **Part II: Powers of Authorised Officials**

### **43. Powers to Execute Work and Inspect Vehicles and Premises**

- (1) In addition to the powers an authorised official has as an authorised representative of the municipality under section 10 of the System Act or any other legislation, an authorized official may:-
  - (a) enter any land or premises to execute work or conduct an inspection; and
  - (b) may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.
- (2) Where consent is not obtained in terms of subsection 43(1) (b), vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a warrant issued in accordance with the procedure set out in section 44.

(3) A search conducted in terms of these by-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

(4) To the extent that access to premises does not fall within the scope of section 101 of the System Act or any other legislation, an authorized official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause harm to public health or damage to the environment may, without warrant, enter and search any premises associated with the emergency. Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in

particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

(5) Where, in the opinion of an authorized official, any search of a vehicle, as contemplated in these by-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to public health or to the environment, the authorized official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to the public health or damage to the environment.

(6) In the event of the seizure of any vehicle under subsection (5), the municipality must:-

(a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to public health or damage to the environment, and the costs of such disposal must be borne by the owner of the vehicle; and

(b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taking.

#### **44. Procedure for Issuing a Warrant**

(1) An authorized official may search any vehicle or other mode of conveyance if a magistrate or a justice has issued a written authorization allowing the authorized official to do so.

(2) A magistrate or a justice may issue a written authorization to search any vehicle or other mode of conveyance, if, from information on oath, there are reasonable grounds to believe either:-

(a) that, in the interest of the public, it is necessary to search a vehicle or other mode of conveyance; or

(b) that there is non-compliance with the terms of these bylaws or any other law in respect of the vehicle or other mode of conveyance.

(3) A written authorization in terms of subsection (2) may be issued at any time and must specifically:-

(a) identify the vehicle or other mode of conveyance; and

(b) authorize the authorized official to conduct the search of the vehicle or other mode of conveyance;

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(4) A written authorization in terms of subsection (2) remains valid until:

(a) it is carried out;

(b) it is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;

(c) the purpose for which it was issued has lapsed; or

(d) three months have passed since it was issued.

(5) Before commencing any work or inspection, designated officers who carry out a written authorization must either:-

(a) if the owner of or a person apparently in control of the vehicle or other mode of conveyance is present:

(i) identify themselves and explain their authority to that person or furnish proof of their authorization; and

(ii) hand a copy of the written authorization to that person; or

(b) if the owner or person apparently in control of the vehicle or other mode of conveyance is absent or

refuses to accept a copy, attach a copy of the written authorization to the land or premises in prominent and visible place.

#### **45. Powers to Question**

- (1) In order to monitor or enforce compliance with these by-laws, the authorized official, may, subject to the requirements of the Bill of Rights, and any other law including common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these by-laws relate, require that the disclosure be made on oath or affirmation, and exercise any other power of an authorized official.
- (2) An authorized official may be accompanied by an interpreter and any other person reasonably required to assist the authorized official in conducting the inspection.
- (3) An authorized official must, on request, provide his identification as an authorized official.

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#### **46. Supervision of Licensees**

- (1) If a licensing system has been established in terms of section 29 of these by-laws, authorized official must inspect the workplace of a licensee not less than twice a year, and an authorized official is entitled to enter the workplace of a licensee for this purpose.
- (2) Such an inspection must be conducted in conformity with the requirement of the Bill of Rights, and any other law and, in particular, an authorized official in conducting inspection under subsection (1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) If an authorized official is of the opinion, after such an inspection, that a licensee is complying with these by-laws, he may, subject to the provisions of subsection (4), issue the licensee with the a certificate confirming compliance, which must state:-
  - (a) the name and residential and postal address of the licensee;
  - (b) the time, date and scope of the inspection; and

- (c) any remarks which in the opinion of the authorized official may be relevant.
- (4) If a license fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorized official may recommend that the municipality review the license, and should there be reasonable grounds, the municipality may revoke the license in terms of section 37, but may do so only if the consecutive inspections occur at not less than four month intervals.
- (5) Authorized officials must keep a register recording each inspection that has been undertaken.

#### **47. Supervision of Owners and Occupiers**

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorized official is likely to cause a nuisance, harm to public health or damage to the environment, and must take reasonable steps to prevent an employee acting in the

course of his employment from committing an act or omission that may cause a nuisance, harm to public health or damage to the environment.

### **Part III: Enforcement Notices**

#### **48. Enforcement Notices**

- (1) If, in the opinion of the authorized official, a person is:-
  - (a) causing a nuisance, harm to public health or damage to the environment; or
  - (b) as licensee, is failing to comply with the terms of license granted in terms of these by-laws; or
  - (c) as owner or occupier, has failed to satisfy an obligation in terms of section 47 of these by-laws.  
the authorized official may issue or be issued on that person an enforcement notice in terms of this section.
- (2) An enforcement notice issued under this section must state:-
  - (a) the name and also the residential and postal address, if

either or both of these be known, of the affected person;

- (b) the nature of the nuisance, harm to public health or damage to the environment that the affected person is causing or is likely to cause;
- (c) the steps required to forestall or remediate the nuisance, harm to public health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
- (d) that the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
- (e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil and criminal liability; and
- (f) that written representations may be made to the

municipality, in terms of section 50, or a designated committee or internal functionary to which or to whom powers under these by-laws have been delegated, at a specific place, within 21 days calendar days of receipt of the notice.

- (3) If an affected person fails to comply with an enforcement notice, the municipality or anyone authorized by the municipality, may perform the steps required in the enforcement notice, provided that the municipality does so in conformity with the requirements of the Bill of Rights and any other law, and, in particular, an authorized official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (4) Where the municipality incurs any expenditure as a result of performing such steps, the municipality may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.

- (5) If a licensee commits an offence in terms of section 36 and has, within the last two years, been convicted of the same offence, the municipality may revoke his license immediately.

#### **49. Complaints**

Any person may lodge a complaint with an authorized official, or through any other channel established by the municipality, that any other person is causing harm to public health or damage to the environment by engaging in basic services or commercial services, in which event the authorized official, unless he has reasonable grounds to believe that the complaint is frivolous, must investigate the complaint and may, if he is satisfied that such harm is, or is likely to be, caused, issue an enforcement notice.

#### **50. Representation**

- (1) Any affected person may make representation to the municipality, or a designated committee or internal functionary of the municipality to which the municipality has delegated its powers, in the manner specified in the enforcement notice.
- (2) Representations must be made by submitting a written statement that has been sworn or affirmed to the municipality, designated committee or internal functionary within 21 calendar days of the service of the notice.

- (3) Any representation not lodged within 21 calendar days shall not be considered, except where the affected person has shown good cause and the municipality, the designated committee or internal functionary condones the late lodging of the representation.
- (4) The municipality, or designated committee or internal functionary, must duly consider the representations and any response to them by an authorized official or any other person, if there be such a response, and may, on its own volition, conduct any further investigation to verify the facts if that, in its opinion, is necessary.
- (5) If the municipality, or designated committee or internal functionary, should conduct any further investigations, the results of the investigation must be made available to the affected person, who must be given an opportunity of making a



further response if he so wishes, and the municipality, or designated committee or internal functionary, must also consider his further response.

- (6) After the municipality, or designated committee or internal functionary, is satisfied that the requirements of subsection (5) have been satisfied, the municipality, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order must:-
- (a) confirm, alter or set aside in whole or part, an enforcement notice; and
  - (c) if compliance with the order (or the altered order) is required, specify the period within which the affected person must comply with any order made by it.
- (7) If the enforcement notice is confirmed, in whole or part, or is altered but not set aside, the municipality, or designated committee or internal functionary, must inform the affected person that he must discharge the obligations set out in the enforcement notice.
- (8) If an affected person lodges a representation, any requirement in terms of section 48 of these by-laws requiring compliance with an enforcement notice, is suspended unless, in the opinion of the municipality, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately

comply with any such requirement on being ordered by the municipality, orally or in writing, to do so.

- (9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection (8), fails to comply with it, the municipality may itself cause the environmental emergency to be stopped, reversed or abated, in which event the municipality may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

#### **Part IV: Administrative Penalties**

## **51. Establishment of an Administrative Penalty System**

- (1) The municipality may establish an administrative penalty system in terms of this part.
- (2) A decision to establish an administrative penalty system in terms of subsection (1) must be published by a notice in the Provincial Gazette and comes into operation on the date announced in the notice which may not be less than 3 months from the date of its publication.

## **52. Infringement Notices**

- (1) If a municipality has established an administrative penalty system, an authorized official may issue an infringement notice to any person whom he believes may have committed an offence listed in Column A of Schedule 2.
- (2) The infringement notice must:-
  - (a) specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
  - (b) state the particular of the infringement;
  - (d) specify the amount of the penalty payable in respect of the infringement designated in Column B of Schedule 2;
  - (d) specify the place where the penalty may be paid; and

- (e) inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he may:-
  - (i) pay the penalty; or
  - (ii) inform the municipality in writing at an address set out in the notice that he elects to be tried in court on a charge of having committed an offence in terms of Chapter 10 of these by-laws.

- (3) If it appears to the authorized official that an alleged offence cannot adequately be punished by the payment of an administrative penalty then the authorized official may refrain from accepting by the administrative penalty and may cause civil or criminal proceedings to be brought against the alleged offender in an appropriate court in terms of Chapter 10 of these by-laws if, in his opinion, there are goods grounds for doing so.

### **53. Trial**

If a person who elects to be tried in court in terms of subsection 52(2)(e)(ii), notifies the municipality of his election, the authorized official must, if he believes that there are sufficient grounds in law for doing so, within 10 calendar days, take all necessary steps, as envisaged in the Criminal Procedure Act, 1977, (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event, or in the event of his considering that there are no grounds for taking further steps, the infringement notice is cancelled.

### **54. Withdrawal of Infringement Notice**

- (1) Within one year after the infringement notice has been issued an authorized official may, whether or not the penalty has been paid, withdraw an infringement notice on the basis that new information has been received by the municipality or on any other goods cause, by :-
- (a) sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn; and
  - (b) providing reasons to the municipal manager for the withdrawal of the infringement notice.
- (2) Where an infringement notice is withdrawn after the penalty has been paid, the amount shall be refunded.

### **55. Infringement Notice not an Admission**

Payment of a penalty shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

## **CHAPTER 11: JUDICIAL ENFORCEMENT PROVISIONS**

### **56. Offences**

- (1) Subject to subsection (1), any person who:-
- (a) contravenes or fails to comply with any provisions of these by-laws, other than a provision relating to payment for basic services;
  - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws;
  - (c) fails to comply with any lawful instruction given in terms of or the purposes of these by-laws; or
  - (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his duties under these by-laws, is guilty of an offence and liable on conviction to a fine not exceeding R5000, 00 or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R8000, 00 or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.
- (2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of these bylaws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequences of the breach.

## CHAPTER 12: GENERAL PROVISIONS

### 57. Ownership

- (1) A person holding a permit to operate a waste disposal facility is deemed to be the owner of the waste disposed at that facility.
- (2) Domestic waste belongs to the generator of that waste until such time as it placed in a bin and placed outside of the premises with the intention that the municipality collect and dispose of that waste, at which time the waste becomes the property of the municipality.
- (3) A person who abandons an article, even if it constitute waste under these by-laws, remains liable for any damage which that article may cause, as well as the cost of removing the article, notwithstanding the fact that that person may no longer be the owner of the article.

#### **58. Service of Documents and Process**

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of basic services, the address of the owner of the premises on which domestic waste and dailies is generated is the place where service of documents and process shall be made.

#### **59. Service of Notices**

- (1) Any notice, order other document that is served on ay person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may regard as having duly been served:-
  - (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently 16 year or older;
  - (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by paragraph (a), (c) and (d); or
  - (b) if that person's address and the identity or the address of

his agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or

- (d) if sent by registered post, whether service by registered post is, or not required, if effected by sending it by properly addressing, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) When any notice or other document must be authorized or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the managing director's office.
- (4) Any legal process is effectively and sufficiently served on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

#### **60. Repeal of By-Laws**

The by-laws specified in the first column of Schedule 1 are hereby repealed to the extent set out in the second column of Schedule 1. Provided that the repeal of such by-laws shall not affect anything done in terms of or any right, obligation or liability acquired or incurred under those by-laws.

#### **61. Date of Commencement**

These by-laws commence on date of their publication in the Provincial Gazette.

## CHEMICAL SAFETY BY- LAWS

The Municipal Manager of the Sekhukhune District Municipality hereby, in terms of section 13(a) in conjunction with section 75(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), publishes the **Chemical Safety by-laws for the Sekhukhune District Municipality**, to be approved by the Council, as set out hereunder.

### Preamble

Chemical Safety refers to ensuring safe practise with regard to all chemical. The importance of regulating Chemicals and hazardous substances is for the purpose of ensuring safety and protecting human health and the environment.

### 1. Repeal

Any previous by-law adopted by the municipality or the council of a municipality now comprising an administrative unit of the municipality and relating to chemical safety is, from the date of promulgation of this by-law, hereby repealed.

### 2. Definitions

In the interpretation of these by-laws, words in the masculine gender include the feminine, the singular includes the plural and vice versa and the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur.

**“Good Vehicle”** has the same meaning as in the National Road Traffic Act;

**“Internal transport”** means the transport within a confined area not open to the public;

**“Transport”** means the transport carried out in all areas accessible to the public and includes restricted areas such as the harbour, the aerodrome and the premises of larger companies with mixed traffic.

**“Safe transport of dangerous chemicals”** shall be based on the information given in the safety data sheets in section 12.

### 3. Premises

If- (a) the Council reasonably believes that any premises have been, or are likely to be used for a purpose or in a manner that has caused, or likely to cause, a public Health Hazard to create a public health nuisance; and

(b) Reasonable measures have or are not taken to avoid the risk or to reduce it to an acceptable level, the Council must-

- i) List the activity concerned in Annexure B; and
- ii) Prescribe measures that must be taken to avoid the risk or to reduce it to a level acceptable to the Council

### 4. Scheduled trades

Any person who uses premises in a manner or for a purpose listed in Annexure B must

- a) Comply with every provision specified in the Chapter of these Bylaws relating to that use, unless that person has been granted an exemption in terms of section 5 from complying with any such provision; and
- b) Obtain a permit in terms of section 6 new below commencing that use and must comply with the terms and conditions of that permit.

### 5. Exemption certificates

(1) Any person who wants to undertake a scheduled trade listed in Annexure B on any premises but wishes to be exempted from complying with any requirement of these Bylaws relating to the use concerned may apply to the Council for an exemption certificate, in accordance with the procedure set out in section 7

(2) The Council may grant an exemption certificate, subject to such conditions as it may impose, if any environmental health practitioner is satisfied that-

- a) The measures taken to avoid or reduce the risk to public health arising from the scheduled trade are equivalent to or better than the measures required by the relevant requirement of these Bylaws; and
- c) The scheduled trade in respect of which the exemption is required, is not likely to cause a public health hazard or a public health nuisance.



**. Public health permits**

(1) Any person who wants to undertake a scheduled trade that is listed in Annexure B, must apply to the Council in accordance with section 7 for a public health permit.

(2) The Council may issue a public health permit to the owner or occupier of any premises, if an environmental health practitioner is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.

(3) A public health permit-

- a) Must be issued subject to condition aimed reducing the risk to public health created by the scheduled trade, to a level acceptable to the Council; and
- b) May exempt the permit holder from complying with any relevant provision of these Bylaws, if the Council reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health required by the relevant provision of these Bylaws.

**7. Application procedures**

(1) Any person who wants to obtain a permit in terms of section 6 or an exemption certificate in terms of section 6 must apply to the Council in writing in a format determined by the Council, prior to undertaking the scheduled trade concerned.

(2) The following information must be submitted together with the application –

- a) A location plan, drawn to a scale of 1:5 000 showing the position of the proposed premises and of all roads, dwellings, factories and works in the neighbourhood, within 1000 meters of such premises;
- b) Approved plans, sections and elevations, drawn to a scale of at least 1: 100, of the buildings and premises proposed to be erected or used;
- c) Full particulars as to the nature of the proposed trade or business, of the raw materials to be used, of the processes to be carried on and the products, by-products and waste materials thereof;

(d) Full particulars of the plant to be installed, including the number, capacity and type or description of all boilers, digesters, driers and other apparatus;

(e) Full particulars, with any necessary explanatory drawings, of the measures proposed to be adopted for the disposal and/or prevention of –

- i) Vapours, odours and effluvia;
- ii) Fluids and liquid waste matters, and
- iii) Solid waste matters;

(f) The number of persons to be employed on the premises;

(g) Particulars of latrine and change-room accommodation for employees; and

(h) Any further particulars, plans or drawing which the Council may require.

(3) The applicant must publish a notice prescribed in Annexure A twice in a newspaper which, in the opinion of the Council, has a sufficient circulation in the district, stating in general terms the nature and the purpose of the application and calling upon interested parties to lodge written objections.

If any, to such application with the Council on or before a date specified in such notice, which may not be earlier than 14 days after the second publication of the notice, as provided hereinafter. The first insertion in the newspaper must be made within one week of lodging the application and the second insertion must be made on the seventh or eighth day following the date of the first insertion. The applicant must forward a copy of each issue of the newspapers containing the notices to the Council.

(4) the Council may, after considering any objection lodged and if satisfied that the buildings, plant and works and the arrangements in connection therewith are in accordance with these Bylaws and that no nuisance or a danger or potential danger to the public health is likely to arise, give permission for the erection or use of such buildings, plant or works for the purposes set forth in the application.

(5) When the Council receives an application contemplated in subsection (1), it must ensure that the relevant premises concerned are inspected by an environmental health practitioner as soon as reasonably possible.

(6) Before deciding whether or not to approve an application contemplated in subsection (1), the Council –

- (a) Must ensure that any persons in the vicinity of the premises whose health or well-being may be affected if the premises are used for the scheduled trade concerned, have been consulted and had an opportunity to make representations; and

- (b) May require the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision.

#### **8. General terms applicable to permits and certificates**

- (1) A permit or an exemption certificate-
  - (a) Is not transferable from one person to another; and
  - (b) Applies only to the premises specified in that certificate or permit.
- (2) Every permit or exemption certificate must
  - (a) Specify the address and other relevant details regarding the location of the premises concerned;
  - (b) Describe the premises concerned
  - (c) Describe the activity concerned
  - (d) Describe particulars of the plant, including the number, the capacity and the type or description of the boilers, digesters, driers and other apparatus or plant approved for use therein;
  - (e) Specify the raw materials to be used; the processes to be carried on and the products and waste materials thereof.
  - (f) Specify the measures to be taken for abating or preventing any nuisance or any danger or potential danger to the public health from vapours, effluvia, and solid and liquid waste matters;
  - (g) Specify terms and conditions imposed, if any; and
  - (h) Indicated when it expires
- (3) An applicant must pay a prescribed fee, as determined by the Council, in respect of an application for a permit or exemption certificate and such fee must accompany the application.
- (4) the Council may refuse to consider an application until it has been provided with the information required to make an informed decision and until the prescribed fee (if any ) has been paid.

**(9) Suspension, cancellation and amendment of permits and exemption certificates**

- 1) An environmental health practitioner may, by written notice to the holder of an exemption certificate or permit, suspend, amend or cancel that certificate or permit in accordance with subsection (2), (3) or (4), as the case may be.
- 2) An environmental health practitioner may suspend or cancel an exemption certificate or permit with immediate effect, if-
  - 3)
    - (a) The environmental health practitioner reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; or
    - (b) The holder of the permit or certificate has failed to comply with a compliance notice issued in terms of section 11 which states that the permit or certificate may be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.
  - 4) An environmental health practitioner may suspend or cancel an exemption certificate or permit after having given the holder thereof, by written notice, a
    - (a) The environmental health practitioner reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
    - (b) The holder of such certificate or permit contravenes or fails to comply with any relevant provision of these Bylaws.
- (4) an environmental health practitioner may amend an exemption certificate or permit by endorsing such s=certificate or permit or by written notice to the holder thereof, if the environmental health practitioner reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the exemption certificate or permit concerned was issued.

**(10) Appointment and Identification of Environmental Health Practitioner**

(1) The Council must issue an identity card to each environmental health practitioner

(2) The identity card must-

- a) Contain a recent photograph of the environmental health practitioner
- b)
- c) Be signed by the environmental health practitioner
- d) Identify the person as an environmental health practitioner

(3) The environmental health practitioner must display his or her identity card so that is clearly visible or produce it at the request of any person in relation to whom the environmental health practitioner is exercising a power under these Bylaws.

**(11) General Powers of an Environmental Health Practitioner**

- (1) Environmental health practitioner may, for the purpose of implementing or administering any power or duty under these Bylaws-
  - (a) Exercise any power afforded to such officer in terms of these Bylaws or any other applicable legislation;
  - (b) Issue a compliance notice requiring any person from conducting an activity;
  - (c) Issue a prohibition notice prohibiting any person from conducting an activity;
  - (d) Undertake measures to remove, reduce or minimise any public health nuisance;
  - (e) Cancel, suspend or amend any permit or exemption certificate in terms of section 9; and

- (f) Enter and inspect any premises and for this purpose may-
  - (i) Question any person on the premises;
  - (ii) Take any sample that the environmental health practitioner considers necessary for examination or analysis;
  - (iii) Monitor and take readings or make measurements;
  - (iv) Take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises;
  - (v) Examine any book record or document relevant to the inspection or investigation
  - (vi) Seize anything that may be used as evidence in the prosecution of a person for an offence in terms of these Bylaws; and
  - vii) Be accompanied by an interpreter and any other person reasonably required to assist him /her in conducting the inspection
- (2) An environmental health practitioner who removes anything from any premises being inspected must-
- a) Issues a receipt for it to the owner, occupier or person apparently in control of the premises; and
  - b) Return it as soon as practicable after achieving the purpose for which it was removed.

- (3) An inspection conducted or work undertaken in terms of this section, must be conducted with strict regard to decency and order, a person's right to respect for and protection of his or her dignity, and a person's right to freedom and security and personal privacy

## **12. Transport**

Every dangerous chemicals shall be transported in accordance with the following manner and comply with any regulations as may be made by Council from time to time

Goods vehicles used for the transport of dangerous goods shall be in compliance with the provisions of the Road Traffic Act or any regulations made under the Road Traffic Act.

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### **CHEMICAL SAFETY**

#### **BY-LAW**

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1. The vehicle shall have, attached to both its front and its rear and the rear of any trailer it is towing "DANGEROUS GOOD" plates, in such a way so as not to interfere with the registration number plates issued under the National Road Traffic Act and obstruct any light or visual warning of the vehicle, thus enabling reliable identification in case of road checks or emergency and indicate the presence in the vehicle of safety data sheets.
2. The driver shall be in possession of a valid driver's licence and relevant safety data sheets and shall be informed, and instructed with respect to the content of the safety data sheets, the use of fire-extinguishers, chokes and personal protective equipment.
3. The transport of extremely dangerous goods shall be restricted to limited periods of time.
4. Transport of dangerous chemical shall be the responsibility of –
  - (a) The manufacture, importer or supplier until the goods are handed over to a transporter or buyer, if he himself carries out the transports;
  - (b) The transporter during the entire transport until the goods have been delivered in good condition;
  - (c) The buyer or employer when he has received goods.

5. Internal transport and handling shall be the responsibility of the owner of the dangerous goods, normally the employer.

The control of transport of dangerous chemicals in public area shall be under the responsibility of the police.

6. The control of internal transport shall be under the responsibility of the Ministry of Labour and Industrial Relations

## **19. Education**

The Council shall from time to time

- 1) Facilitating the chemical safety by providing advice, education and training to the community.
- 2) Presenting annual exhibitions n creating awareness of the misuse, dangers and storage methods of chemicals because of its wide spread use as source energy in communities.

General

## **14. Offences and Penalties**

Any person who-

- (a) Contravenes or fails to comply with any provisions of these Bylaws;
- (b) Fails to comply with any notice issued in terms of or for the purposes of these Bylaws;
- (c) Fails to comply with any lawful instruction given in terms of or for the purpose of these by laws;
- (d) Knowingly gives false or misleading information to an environmental health practitioner;



- (e) Threatens, resists, interferes with or obstructs an authorised officer or an environmental health practitioner in the performance of his or her powers, duties or functions as contemplated in these Bylaws; or
- (f) Impersonates an environmental health practitioner, is guilty of an offence and, upon conviction, is liable to a fine or to imprisonment for a period not exceeding two years, or to both.

### 15. Serving of notices

- (1) A notice, order or other document is regarded as having been properly served if-
  - (a) It has been delivered to the person concerned personally
  - (b) It has been sent by registered post or speed post of the person to whom it is addressed at his or her last known address.
  - (c) It is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
  - (d) If the address of the person concerned in the Republic of South Africa is known, it has been served on that person's agent or representative in the Republic of South Africa in the manner provided for in paragraph (a),(b) or (c); or
  - (e) If the address of the person concerned and of his or her agent or representative in the Republic of South Africa is unknown, if it has been posted in a conspicuous place on the premises to which it relates.

- 2) A notice, order or other document which may in terms of these Bylaws be served on the owner or occupier of premises may be addressed to “the owner” or “the occupier” of the specified premises and need not bear the name of the owner or occupier.

**ANNEXURE A**

**NOTICE TO BE PUBLISHED BY APPLICANT FOR PERMISSION OF THE COUNCIL TO USE PREMISES FOR THE CARRYING ON OF A SCHEDULED TRADE SEKHUKHUNE DISTRICT: ENVIRONMENTAL HEALTH BY LAWS**

Notice is hereby given that an applicant will be made in terms of the above-mentioned Bylaws to the Council of the Sekhukhune District, for permission to use premises at the following address

.....  
..... (Insert site address)

For the following purposes

.....  
..... (description of purposes and nature of trade or proposed to be carried on) any person desiring to object to the use of the above-mentioned premises for such purposes may do so by lodging on or before .....a written notice, in duplicate, setting out the grounds of his objection, with the Municipal Manager Sekhukhune District

Name and address of applicant.....  
.....  
.

**LIST OF SCHEDULED TRADES**

1. Panel beating or spray painting
2. Operating a waste recycling plant including oil and petroleum product recycling
3. Scrap yard or scrap metal dealing
4. Parchment making;
5. Sintering of sulphurous materials
6. Viscose works;
7. Ore or mineral smelting, calcining, puddling or rolling or iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metals;
8. Works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverised fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;

9. Works or the production of amyl acetate, aromatic ethers, butyric acid, caramel, enamelled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide
10. Bacon factories and meat-processing factories;
11. Food-processing factories;
12. Chemical works;
13. Dye works;
14. Breweries and distilleries;
15. Malt and yeast manufacturing works;
16. Sugar mills and sugar refineries;
17. Works or premises used for the storing or mixing of manure, super phosphate or fertiliser;
18. Fat-melting or tallow-melting works and any similar works or establishments for dealing with bones, meat, blood or offal, or with other organic matter derived from animals or poultry;
19. Works or premises used for the manufacture, storage or mixing of meal derived from fish crustacean, poultry, meat offal from animals or poultry, or other organic matter derived from animals or poultry;
20. Works or premises used for storing, drying, preserving, or otherwise processing bones, horns, or other waste matter or excretions from animals or poultry

21. Premises used for storing, sorting or dealing with hides and skins, or for fellmonger;
22. Tanning and leather-dressing works;
23. Slaughter houses or abattoirs and knackers yards;
24. Glue or size factories
25. gut-scraping works;
26. tripe-cleaning or tripe-boiling works;
27. Soap or candle works
28. wool-scouring or wool-washing works;
29. Processing of fish products;
30. Whaling stations, and premises or works used for storing or processing material derived from whales;

31. Paper mills or paper works;
32. Sawmills, wood bark grinding, chipping or extracting work, and destructors;
33. Landfill sites, sewage treatment and water purification plants and activities
34. crematoria;
35. lead-smelting works
36. Oil refineries and works concerned with the processing of products of petroleum refining;
37. Paint and varnish works
38. Rubber works, including retreating or motor vehicle tyres;
- 39 brick-burning and lime-burning works
40. stone-crushing and stone-dressing works
41. Asbestos works- any processes where asbestos is used, milled or handled;
42. Cement works;
43. Metallurgical works
44. Reduction works and ore-dressing works
45. Charcoal burning and brick burning
46. Works or premises where sand or shot blasting or similar dust or grit producing processes is applied
47. Dry cleaning establishments; and
48. The handling or storage of any substance or material which can lead to a public health hazard.